

# CITY OF FRISCO, TEXAS



## Subdivision Ordinance

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*May 20, 2009*







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# **SECTION 1: GENERAL SUBDIVISION AUTHORITY OF THE CITY**

## **SECTION 1.01 AUTHORITY, PURPOSE & APPLICABILITY**

- (a) **Authority.** The regulations of this Subdivision Ordinance are authorized under the authority of Texas Local Government Code, Chapter 212 (including Subchapter B) and the City's charter. The provisions of this Subdivision Ordinance expressly extend to all areas inside the City limits and throughout the City's extraterritorial jurisdiction (ETJ), as either may be adjusted in the future.
- (b) **Purpose.**
- (1) The development and subdivision of land, as they affect a community's quality of life, are activities for which regulation is a valid function of municipal government. The regulations contained within this Subdivision Ordinance are intended to protect the interests of the public and of private parties by granting certain rights and privileges. The requirements in this Ordinance are also intended to establish a fair and rational procedure for developing and subdividing land such that land will be developed in accordance with existing physical, social, economic and environmental conditions.
  - (2) The provisions of this Ordinance are intended to implement standards and requirements provided for herein, and shall be requirements for the platting and developing of subdivisions within the City and its ETJ.
  - (3) The provisions of this Ordinance are intended to implement the following objectives:
    - a. Promote the development and the utilization of land in a manner that provides an attractive and high-quality community environment in accordance with the Comprehensive Plan and the Zoning Ordinance of the City;
    - b. Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the required standards;
    - c. Protect the public interest by having standards for, but not limited to, the location, design, class and type of streets, sidewalks, trails, alleys, utilities and essential public services;
    - d. Assist orderly, efficient and coordinated development within the City's limits and its ETJ;
    - e. Integrate the development of various tracts of land into the community, and coordinate the future development of adjoining tracts;
    - h. Promote the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
    - i. Provide for compatible relationships between land uses and buildings;
    - j. Provide for efficient traffic circulation throughout the municipality;

- k. Provide for pedestrian circulation that is appropriate for the various uses of land and buildings;
- l. Minimize pollution of the air, streams, bodies of water, and aquifers; promote the adequacy of storm drainage facilities; minimize erosion; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;
- m. Preserve the natural beauty and topography of public and private properties by encouraging where possible that natural features and land forms are incorporated into developments as amenities;
- n. Establish adequate and accurate records of land subdivision;
- o. Provide for public or private facilities that are available and will have sufficient capacity to serve proposed and future developments and citizens within the City and its ETJ;
- p. Provide for adequate light, air and privacy; secure safety from fire, flood and other dangers; and prevent overcrowding of the land and undue congestion of population;
- q. Encourage the development of residential areas that incorporate a range of housing and lifestyle choices.

**(c) Applicability.**

(1) The provisions of this Subdivision Ordinance apply to any non-exempt (see Section 4.01(c)) division of land, combination of separate land parcels, and/or development of land within the corporate boundaries of the City and within its ETJ.

(2) No permit shall be issued for any building or structure on a property until a plat has been approved and filed for record unless specifically exempted herein (see Section 4.01(c)).

**(d) Subdivision Rules.** The provisions of this Subdivision Ordinance, the standards governing constructed facilities applicable to plats in other portions of the Municipal Code of Ordinances, and the technical standards contained in the *Engineering Design Standards and Construction Details*, constitute the subdivision rules of the City, which apply to applications for plat approval inside City limits and within the City's ETJ.

**(e) Compliance with City Plans and Ordinances Required.** Compliance with all City ordinances pertaining to the subdivision and development of land, and the City's Comprehensive Plan (where applicable), shall be required prior to approval of any application pursuant to this Ordinance. All such ordinances and the Comprehensive Plan shall be construed to mean those documents as they exist or may be amended. It is the property owner's responsibility to be familiar with, and to comply with, City ordinances, the Comprehensive Plan, and the provisions of this Ordinance. Applicable City ordinances and plans with which all applications must comply include, but are not limited to, the following:

1. Comprehensive Plan (including all associated maps and plans);



2. Zoning Ordinance;
3. Building Codes;
4. Drainage System Design Requirements;
5. International Fire Code;
6. Other Applicable portions of the Municipal Code of Ordinances;
7. Impact Fee Ordinance;
8. Park Dedication Ordinance;
9. Engineering Documents including:
  - *Engineering Design Standards and Construction Details,*
  - *Thoroughfare and Circulation Design Requirements, and*
  - Other development-related engineering standards.
10. Federal, State and Local Environmental Regulations.

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## SECTION 2: AUTHORITY OF DECISION-MAKERS

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### SECTION 2.01 GENERAL PROVISIONS

- (a) **Source of Authority.** Authority under this Subdivision Ordinance shall be vested in and delegated to the officials and decision-makers designated in this Section 2 and under the City's charter, the constitution and laws of the state of Texas, and the Municipal Code. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Subdivision Ordinance to any authority conferred upon the officials and decision-makers under the City's charter, the constitution or laws of the state of Texas, or the Municipal Code, or the failure to identify in this article authority conferred by other provisions of this Subdivision Ordinance, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.
- (b) **Implied Authority.** The officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by Chapter 212 of the Texas Local Government Code and this Subdivision Ordinance, to the extent that the implied authority is not in conflict with the expressly delegated authority.
- (c) **Limitation on Authority.**
- (1) City Policy. It is the policy of the City that the standards and procedures applicable to development of property within the City limits and within the City's ETJ are as stated in this Subdivision Ordinance, notwithstanding any representation by any City official summarizing, paraphrasing or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.
  - (2) Representations. The applicant shall not rely on any representation made by an employee of the City, a member of an appointed board or commission, or a member of the City Council concerning the likelihood of an outcome of that official's decision or the decision of an appointed board or commission or the City Council, on any application that has yet to be filed or is pending before the City. An official may, however, convey information concerning that official's position on a pending application in accordance with his/her role as the responsible official (Section 2.02) for such application or as the City staff contact person.
  - (3) Effect of Comprehensive Plan, Ordinance or Development Standard on Liability Claims. The City's approval of an application under the standards and procedures of this Subdivision Ordinance does not guarantee or ensure that development of the property in accordance with the standards will prevent, minimize or mitigate harm to adjoining property. A person who undertakes development activities shall not rely on the City's approval of an application as ensuring that the development activities will not result in harm to adjoining property. The regulations contained in this Subdivision Ordinance constitute an exercise of the City's governmental authority, and approval of an application shall not give rise to any liability on the part of the City or its officers, agents and employees, nor will an approval release the

applicant from any liability for harm arising out of development of the property under applicable law.

- (4) **No Waivers.** Except as expressly provided for in this Subdivision Ordinance, no official, board or commission of the City, or the City Council, shall have authority to waive any requirement or standard for an application. Any attempted waiver of a requirement or standard for an application in contravention of this Section shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approved application.
- (d) **Conflict in Authority.** If any of the provisions of this Subdivision Ordinance are in apparent conflict, the Director of Development Services shall, after due consideration as to the purpose and intent of each conflicting provision, make a determination as to which provision shall apply. The Director of Development Services shall make every effort to be fair and consistent in such interpretations, and his/her decision may be appealed to the City Manager (see Section 2.06), unless otherwise noted within.

#### SECTION 2.02 RESPONSIBLE OFFICIAL ASSIGNED

- (a) **Responsible Official.** The responsible official shall be the Director of a designated City department who is assigned responsibility under this Subdivision Ordinance for taking the following actions with regard to a particular type of application authorized under this Subdivision Ordinance:
- (1) Accepting the application for filing, and processing the application;
  - (2) Reviewing and making recommendations concerning the application;
  - (3) Seeking advice of other City departments, and coordinating any recommendations from such departments concerning the application;
  - (4) Determining a request for exemption;
  - (5) Preparing reports to and advising any board, commission or the City Council that has responsibility for making recommendations on or deciding the application;
  - (6) Promulgating additional or modified policies, standards and administrative rules for adoption by the City Council that apply to the application;
  - (7) Initiating enforcement actions concerning compliance with the standards applicable to the application and the conditions imposed thereon; and
  - (8) Taking all other actions necessary for administration of the provisions of this Subdivision Ordinance with respect to the application or petition.
- (b) **Delegation.** The responsible official may delegate the official's authority under this Subdivision Ordinance to subordinate officials, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

### SECTION 2.03 DIRECTOR OF DEVELOPMENT SERVICES

- (a) **Responsible Official.** The Director of Development Services is the responsible official for the following types of applications, waivers and petitions:
- (1) Review and approval for any type of plat;
  - (2) Waiver of Right to 30-Day Action;
  - (3) Extension of a plat approval;
  - (4) Major and Minor Waivers related to an application;
  - (5) Appeal of a decision on any application for which the Director of Development Services is the responsible official;
  - (6) Appeal of a decision on any application for which the Commission is the initial decision-making body; and
  - (7) Vested rights petition for any application when the Director of Development Services is the responsible official.
- (b) **Initial Decision-Maker.** The Director of Development Services is the initial decision-maker for the following types of applications (subject to any appeal):
- (1) Minor Plat, as outlined in Section 4.05;
  - (2) Amending Plat, as outlined in Section 4.08;
  - (3) Extension for a Preliminary Plat approval, as outlined in Section 4.02(j);
  - (4) Certain types of Minor Waivers, as outlined in Section 9.01;
  - (5) Vested rights petition for an application for which the Director of Development Services is the initial decision-maker;
  - (6) Building Permit; and
  - (7) Certificate of Occupancy.

### SECTION 2.04 DIRECTOR OF ENGINEERING SERVICES

- (a) **Responsible Official.** The Director of Engineering Services is the responsible official for the following types of applications:
- (1) Review of Construction Plans, including all engineering plans and related construction tasks, including approval of contracts for public improvements, as outlined in Section 5.01;
  - (2) Extension for Construction Plans, as outlined in Section 5.01(h);
  - (3) Construction Release, as outlined in Section 5.01(i);
  - (4) Improvement Agreement, as outlined in Section 5.04;

- (5) Appeal related to an application for which the Director of Engineering Services is the responsible official;
  - (6) Certain types of Minor Waivers (related to construction requirements), as outlined in Section 9.01;
  - (7) Vested rights petition for an application for which the Director of Engineering Services is the responsible official; and
  - (8) Petition for a proportionality appeal, as outlined in Section 9.02.
- (b) **Initial Decision-Maker.** The Director of Engineering Services is the initial decision-maker for the following types of applications (subject to any appeal):
- (1) Approval of Construction Plans, including all engineering plans and related construction management tasks, including approval of contracts for public improvements;
  - (2) Construction Release;
  - (3) Extension for Construction Plans approval;
  - (4) Certain types of Minor Waivers (related to construction requirements), as outlined in Section 9.01; and
  - (5) Vested rights petition for an application for which the Director of Engineering Services is the initial decision-maker.

#### SECTION 2.05 DIRECTOR OF PARKS & RECREATION

- (a) **Responsible Official and Initial Decision-Maker.** The Director of Parks & Recreation is the responsible official for the review and recommendation to the Parks & Recreation Board, and for carrying out the Parks & Recreation Board's decisions, on the following types of applications:
- (1) Acceptance of fees in lieu of parkland dedication;
  - (2) The portion of an application showing where park land, including trails, is to be dedicated, and whether such dedication is acceptable;
  - (3) Any other portions of applications showing items required by Section 8.12.

#### SECTION 2.06 CITY MANAGER & OTHER OFFICIALS

- (a) **City Manager, Initial Decision-Maker.**
- (1) Appeals. The City Manager is the appellate decision-maker for any appeal for which a City staff person is the initial decision-maker, subject to further appeal as may be provided for in any subsequent sections of this Subdivision Ordinance.
- (b) **Other City Officials.** The City Attorney and any other official delegated responsibilities under this Subdivision Ordinance or other provisions of the Municipal Code are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed herein.

## **SECTION 2.07 PLANNING & ZONING COMMISSION**

- (a) **Organization, Powers & Duties.** The Planning & Zoning Commission (also referred to as Commission) shall hold meetings and have the powers and duties as provided for in the Municipal Code of the City (Part One, Article IX. Planning & Zoning Commission), and as authorized by Chapter 211 or 212 of the Texas Local Government Code. Such powers and duties shall include exercising all the authority and control conferred by law relating to platting.
- (b) **Duties of the Director of Development Services.** The Director of Development Services shall act as the staff liaison to the Commission, and shall abide by the City's usual record-keeping and retention policies for boards and commissions, as amended, in maintaining records of the Commission's meetings and actions.
- (c) **Authority for Deciding Applications.** The Commission shall have the authority to act on the following types of applications:
  - (1) Preliminary Plat;
  - (2) Final Plat;
  - (3) All other types of plats, with the exception of Minor Plats and Amending Plats (which may be decided by the Director of Development Services unless deferred to the Commission).
- (d) **Authority for Deciding Appeals.** The Commission shall hear and decide the following appeals:
  - (1) Any Major Waiver petition on an application for a Preliminary Plat, Final Plat or Replat, except when such Waiver is a proportionality appeal, in which case Section 9.02 of this Subdivision Ordinance shall apply;
  - (2) Minor Plat or Amended Plat that is deferred by the Director of Development Services, as outlined in Section 4.05(h) or Section 4.08(i), as applicable;
  - (3) A vested rights petition that is deferred by the Director of Development Services or the Director of Engineering Services, as outlined in Section 9.03(g)(3);
  - (4) Any other appeal so authorized by this Ordinance.

## **SECTION 2.08 CITY COUNCIL**

- (a) **Authority for Deciding Applications and Appeals.** The City Council shall hear and decide appeals from decisions made by the Commission when such appeals are authorized by this Ordinance.





## SECTION 3: DEVELOPMENT APPLICATION SUBMITTAL & PROCESSING PROCEDURES

### SECTION 3.01 PRE-SUBMITTAL MEETING

- (a) **Option to Meet With City Staff.** Prior to the official submission of an application for review and consideration, the applicant(s) has the option to request and attend a Pre-Submittal Meeting with City staff.
- (b) **Meeting Request.** To schedule a pre-submittal meeting, the applicant shall make a request for a Pre-Submittal Meeting with Development Services, and such request shall describe the type of development desired and/or the type of application that the applicant intends to submit. The applicant shall then be notified by Development Services of the meeting time and place for the requested meeting.
- (c) **Vested Rights.** There shall be no vested rights based on a pre-submittal meeting.
- (d) **Effect.** Following the Pre-Submittal Meeting, the applicant may proceed with the submittal of an application.

### SECTION 3.02 GENERAL APPLICATION CONTENTS

- (a) **Application Contents Generally.** All applications shall be submitted on a form supplied by Development Services with the required information as stated on the application form. Incomplete applications shall not be accepted for filing and shall not be considered officially filed.
  - (1) Application Timing.
    - a. Development Services shall establish submittal deadlines for all applications decided by the Director of Development Services and by the Commission.
    - b. An application must be considered complete and officially filed in accordance with Section 3.03 of this Subdivision Ordinance prior to being processed for review and consideration.
  - (2) Fees Required. Every application shall be accompanied by the prescribed fees set forth in the City's fee schedule, as approved by City Council and as may be amended from time to time. The prescribed fee is not refundable.
  - (3) Delinquent City Taxes on Property. An application shall not be deemed complete, nor shall it be approved, if there are delinquent City taxes on the subject property.

- (b) **Modification of Applications Prior to Approval.** The applicant may modify any complete application following its filing and prior to the expiration of the period during which the City is required to act on the application.
- (1) Modifications Requested by the City. If the modification is for revisions requested by the City, and the modification is received at least eleven (11) calendar days prior to the time scheduled for decision on the application, the application shall be decided within the original period for decision (from the original official filing date) prescribed by this Subdivision Ordinance.
  - (2) Other Modifications In all other instances (e.g., when the applicant chooses to submit a revised application on his own accord because of a change in development decisions), submittal of a modified application shall be accompanied by a properly executed Waiver of Right to 30-Day Action (see Section 3.03(e)) in order to allow City staff adequate time to review the new information and modifications, and shall extend the time for deciding the application for a period equal to the time specified in this Subdivision Ordinance to decide the original application, commencing on the official filing date of the modified application.

### SECTION 3.03 INITIATION, COMPLETE APPLICATION & EXPIRATION

- (a) **Initiation by Owner.** An application required under this Subdivision Ordinance may be initiated only by the owner of the land subject to the application, or by the owner's duly authorized representative. If the applicant is a representative of the property owner, the application shall include a written and Notarized statement from the property owner, such as a duly executed "Power of Attorney", authorizing the representative to file the application on the owner's behalf.
- (b) **Applicability.** The procedures within this Section 3 shall apply to all applications that are required by the City and submitted in accordance with this Subdivision Ordinance.
- (c) **Determination of Completeness.** Every application shall be subject to a determination of completeness by the responsible official for processing the application. An application must be complete in order to be accepted for review by the City.
  - (1) The application shall only be accepted by the responsible official for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this Subdivision Ordinance. A typographical error shall not, by itself, constitute an incomplete application.
  - (2) A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Subdivision Ordinance.
  - (3) A determination of completeness of an application shall be conducted in accordance with the following procedures:
    - a. The applicant shall be notified in writing within ten (10) business days if the submitted application is incomplete. Such notice shall be served by depositing it in the U.S. Postal Service, or by electronic mail transmission, before the tenth (10<sup>th</sup>) business day following submission of the application.

- b. If the application is determined to be incomplete, the notification shall specify the documents or other information needed to complete the application, and shall state the date the application will expire (see Section 3.03(f)) if the documents or other information are not provided to the City.
  - c. An application shall be deemed complete on the eleventh (11<sup>th</sup>) business day after the application has been received if notice is not served in accordance with Section 3.03(c)(3)a.
  - d. If the application is determined to be complete, the application shall be processed as prescribed by this Subdivision Ordinance.
- (4) It is not guaranteed that an accepted, complete application will be approved, if after the application is deemed complete it is determined that the application does not comply with this Subdivision Ordinance.
- (d) **Re-Submittal After Notification of Incompleteness.** If the application is re-submitted after a notification of incompleteness, the application shall be processed upon receipt of the re-submittal. An additional determination of completeness shall be made thereafter as described in Section 3.03(c). The statutory 30-day time frame for plat approvals shall begin when the City deems the application is complete (see Section 3.03(g)).
- (e) **Waiver of Right to 30-Day Action.** The Director of Development Services shall be the responsible official for a Waiver of Right to 30-Day Action.
  - (1) Request. An applicant may submit in writing a Waiver of Right to 30-Day Action in relation to the decision time for plats of thirty (30) days, as mandated by State law.
  - (2) Received. If the applicant is requesting Waiver of Right to 30-Day Action, such Waiver of Right to 30-Day Action must be received by the Director of Development Services on or before the seventh (7<sup>th</sup>) calendar day prior to the Planning & Zoning Commission meeting at which action would have to be taken (based on the 30-day requirement in State law) on the application. Waiver requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the application at such meeting as scheduled.
  - (3) Requirements Maintained. Submission of a Waiver of Right to 30-Day Action, and acceptance of such Waiver by the City as part of an application, shall not be deemed in any way a Waiver to any requirement within this Subdivision Ordinance. A Waiver from requirements herein is a separate and distinct process (see Section 9.01).
- (f) **Expiration of Application.**
  - (1) The application shall automatically expire at the close of business on the forty-fifth (45<sup>th</sup>) calendar day after the date the application is received, and it will be returned to the applicant together with any accompanying documents and materials, if:
    - a. The City provides to the applicant, not later than the tenth (10<sup>th</sup>) business day after the date the application is filed, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and

- b. The applicant fails to provide the specified documents or other information necessary to comply with the City's requirements relating to the application within the time provided in the notification.
- (2) An accepted application for which there has been no action taken by an applicant for ninety (90) calendar days shall be deemed expired and closed on the City's initiative.
  - a. If the application is of a type that can be administratively approved or denied, the responsible official shall notify the applicant in writing that the application is officially denied due to inaction.
  - b. If the application is of a type that must be acted upon by the Commission, the responsible official shall coordinate the application being placed on the agenda of the Commission, as applicable, and the application shall then be formally denied by an official action of the Commission, as applicable. The responsible official shall notify the applicant in writing that the application has been officially denied by the Commission due to inaction.
- (g) **Official Filing Date.** The 30-day time period established by State law, and by this Subdivision Ordinance, for processing and deciding an application shall commence on the official filing date. The official filing date shall be defined as the date the application is deemed complete by the responsible official in the manner prescribed by Section 3.03(c).

#### SECTION 3.04 APPLICATION PROCESSING, ACTION, AND NOTIFICATION FOLLOWING DECISION

- (a) **Action By Responsible Official.** The responsible official for an application shall initiate internal (i.e., City) review and assessment of the application following the City's development review procedures. The responsible official shall also, to the extent possible, work with the applicant by advising on and communicating revisions that may be necessary to bring the application into compliance with City regulations in preparation for consideration by the appropriate decision-maker.
- (b) **Decision.** The decision-maker for the application shall approve, approve with conditions, or deny the application within the time period prescribed by this Subdivision Ordinance.
- (c) **Conditions Attached.** The decision-maker may attach such conditions to the approval of an application as are reasonably necessary to ensure compliance with all applicable requirements of this Subdivision Ordinance.
- (d) **Notification of Decision.** The City shall send written notice within fourteen (14) calendar days following the date of a decision on an application.
- (e) **Notification of Appeal.** Whenever appeal is taken from a final decision on an application following a public hearing, or whenever the City is to consider revocation of an application which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided to the applicant.

### SECTION 3.05 PUBLIC HEARINGS

- (a) **Setting the Hearing.** When the responsible official determines that an application is complete and that a public hearing is required by this Subdivision Ordinance (see Sections 4.07(b) and 4.09(c)) or by State law, the official shall cause notice of such hearing to be prepared and made in accordance with State law. The time set for the hearing shall conform to the time periods required by Sections 4.07(b) and 4.09(c) in this Subdivision Ordinance and by State law.
- (b) **Conduct of the Hearing.** The public hearing shall be conducted in accordance with State law. Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name and address, and if appearing on behalf of an organization, state the name of the organization for the record.
- (c) **Record of Proceedings.** The board/commission conducting the hearing shall record the proceedings using standard municipal record-keeping procedures.

### SECTION 3.06 AMENDMENTS & EXPIRATION

- (a) **Amendments/Revisions to an Approved Application.** Unless another method is expressly provided by this Subdivision Ordinance, any request to amend or revise an approved application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.
- (b) **Time of Expiration.**
  - (1) Unless otherwise expressly provided by this Subdivision Ordinance, an approved application shall automatically expire two (2) years following the approval date of the application (see Section 5.01(g) for expiration of Construction Plans), and shall become null and void, and all activities under the application thereafter shall be deemed in violation of this Subdivision Ordinance, if:
    - a. The applicant fails to satisfy any condition that was imposed by this Subdivision Ordinance or as part of the approval of the application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term; or
    - b. The applicant fails to submit a subsequent complete application required by this Subdivision Ordinance within the time so required; or
    - c. An Improvement Agreement (Section 5.04) is not approved for the development.
  - (2) If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be two (2) years following the date the application was approved, except as provided in Section 3.07.

- (3) Except as provided in Section 3.07, or upon a different date being determined pursuant to a vested rights petition, an application approved prior to the effective date of this Subdivision Ordinance shall expire in accordance with the terms of the regulations in effect at the time the application was filed.
- (c) **Effect of Expiration.** Upon the expiration of an approved application, all previously approved applications for the same land shall also expire on the expiration date if the filing of an application was required to avoid expiration for the previously approved application(s), except as provided in Section 3.07. Thereafter, a new application must be submitted for consideration and approval subject to regulations in effect at the time the new application is filed.

### SECTION 3.07 EXPIRATION FOR PROJECTS APPROVED PRIOR TO SEPTEMBER 1, 2005

- (a) **Two-Year Expiration Established.** Notwithstanding any other provision of this Subdivision Ordinance, for any approved application for which no expiration date was in effect on September 1, 2005, an expiration date of two (2) years following the date of approval of the application shall apply, unless the applicant files a written petition before such date for a vested rights determination pursuant to Section 9.03 alleging that progress has been made toward completion of the project for which the application subject to expiration was filed. If a vested rights petition is timely filed and subsequently approved, the City Council shall determine the expiration date of the application in deciding the petition.
- (b) **Five-Year Expiration Established.** Notwithstanding any other provision of this Subdivision Ordinance, once an application has expired under Section 3.07(a), all previously approved applications for the same land also shall expire no later than five (5) years following the date of filing of the first application for the project for which the expired application was filed, unless the applicant files a written petition before such date for a vested rights determination pursuant to Section 9.03. If a vested rights petition is timely filed and subsequently approved, the City Council shall determine the expiration date of the previously approved applications in deciding the petition.



## SECTION 4: SUBDIVISION PROCEDURES

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### SECTION 4.01 GENERAL SUBDIVISION & PLATTING PROCEDURES

- (a) **Types of Plats Required.** A Final Plat or a Minor Plat shall be approved prior to any land division that is subject to these regulations and prior to commencement of any new development or construction project.
- (b) **Replat.** A Replat in accordance with State Law and the provisions of Sections 4.06 and 4.07 shall be required any time a platted, recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property. In the case of minor revisions to recorded plats or lots, a Minor Plat or Amending Plat may also be utilized if allowed by State Law and if in accordance with Section 4.05 and Sections 4.06 and 4.08, respectively.
- (c) **Exemptions.** The following land divisions are exempt from the requirements of this Subdivision Ordinance that apply to plats:
- (1) Use of existing cemeteries complying with all State and local laws and regulations; and
  - (2) A division of land created by order of a court of competent jurisdiction, provided however, that prior to construction of improvements, a plat meeting the requirements of this Ordinance shall be approved and recorded prior to the issuance of permits.
- (d) **Zoning.** Inside the City limits of the City, the following shall apply:
- (1) Conformance with Existing Zoning. All applications shall be in conformance with the existing zoning on the property (if applicable).
  - (2) Request to Rezone First. If an applicant seeks to amend the zoning for the property, the request to rezone the land shall be submitted and approved prior to acceptance of an application for filing unless as otherwise provided below.
    - a. The applicant may request approval from the Director of Development Services to submit an application simultaneous with the zoning change request, in which case the application for the zoning amendment shall be acted upon first, and provided that the application is accompanied by a properly executed Waiver of Right to 30-Day Action (due to the more lengthy time frame necessary to advertise and process zoning applications).
    - b. In the event that the requested zoning amendment is denied, the application shall also be rejected or denied.
  - (3) Site Plan Approval. Where Site Plan approval is required by the Zoning Ordinance prior to development, no application for a Final Plat approval shall be accepted for filing until a Preliminary Site Plan has been approved for the land subject to the proposed plat.

(e) **General Stages of Plat Approval & Staff Review.**

- (1) Two-Stage Process. The platting process typically involves two approval stages: Submission and approval of a Preliminary Plat (refer to Section 4.02), and subsequent submission and approval of a Final Plat (refer to Section 4.03). However:
  - a. An applicant may proceed with a Final Plat without an approved Preliminary Plat whenever:
    1. A Minor Plat (Section 4.05) is submitted; or
    2. A Preliminary Site Plan for a multi-family, single-family attached or nonresidential development is submitted and approved in accordance with the Zoning Ordinance.
  - b. An applicant may submit Construction Plans and a Final Plat simultaneously in lieu of a Preliminary Plat if an Improvement Agreement and appropriate surety (see Section 5.04) are submitted along with the application.
- (2) Staff Review. Unless otherwise specified under the regulations for a specific type of plat:
  - a. The Director of Development Services shall be the responsible official for a plat, and shall be responsible for the initial review of a plat for conformance with this Subdivision Ordinance and any other applicable ordinances of the City.
  - b. The Director of Development Services, and/or other City staff at the direction of the Director of Development Services, shall review all applications for completeness (refer to Section 3.01) based on a checklist supplied by Development Services.
  - c. The Director of Development Services, and/or other City staff at the direction of the Director of Development Services, shall then review all applications that are deemed complete for conformance with this Subdivision Ordinance and with other applicable City regulations.

**SECTION 4.02 PRELIMINARY PLATS**

- (a) **Purpose.** The purpose of a Preliminary Plat shall be to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable requirements of this Subdivision Ordinance.
- (b) **Exceptions.**
  - (1) A Preliminary Plat is not required when a Minor Plat is submitted (refer to Section 4.05).
  - (2) A Final Plat in accordance with Section 4.03, along with Construction Plans in accordance with Section 5.01, may be submitted in lieu of a Preliminary Plat if an Improvement Agreement and appropriate surety (see Section 5.04) are submitted along with the application.
- (c) **Accompanying Applications.**
  - (1) An application for a Preliminary Plat shall be accompanied by a Preliminary Drainage Plan, a Preliminary Utility Plan, and other plans if deemed necessary for thorough review by the



Director of Development Services or the Director of Engineering Services. However, approval of each shall be separate and in accordance with this Section 4.02 for Preliminary Plats and with Section 5.01 for Construction Plans.

- (2) The applicant shall furnish with the application to the City a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Preliminary Plat.

**(d) Review by Director of Development Services.** The Director of Development Services shall:

- (1) Initiate review of the plat and materials submitted (including the required Preliminary Drainage Plan and Preliminary Utility Plan).
- (2) Request written comments from other City departments, such as Engineering Services, Fire Department, Public Works, Parks and Recreation, if deemed necessary.
- (3) Make available plats and reports to the Commission for review.
- (4) Upon determination that the application is ready to be acted upon, schedule the Preliminary Plat for consideration on the agenda of the next available meeting of the Planning & Zoning Commission.

**(e) Action by Planning & Zoning Commission.** The Commission shall:

- (1) Review the Preliminary Plat application, the findings of the Director of Development Services, and any other information available. From all such information, the Commission shall determine whether the Preliminary Plat conforms to the regulations of this Subdivision Ordinance.
- (2) Act within thirty (30) calendar days following the official filing date of the Preliminary Plat application (unless the applicant submits a Waiver of Right to 30-Day Action as outlined in Section 3.03(e)). If no decision is rendered by the Commission within the thirty (30) day period described above or such longer period as may have been agreed upon, the Preliminary Plat, as submitted, shall be deemed to be approved.
- (3) Take one of the following actions:
  - a. Approve the Preliminary Plat;
  - b. Approve the Preliminary Plat with conditions, which shall mean that the Preliminary Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Preliminary Plat.

**(f) Criteria for Approval.** The following criteria shall be used by the Commission to determine whether the application for a Preliminary Plat shall be approved, approved with conditions, or denied:

- (1) The Preliminary Plat is consistent with all zoning requirements for the property, including any applicable Planned Development zoning standards, and with any approved Improvement Agreement if applicable;

- (2) The proposed provision and configuration of public improvements including, but not limited to, roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration, easements and rights-of-way are adequate to serve the development, meet applicable standards of this Subdivision Ordinance, and conform to the City's adopted master plans for those facilities;
  - (3) The Preliminary Plat is in accordance with the City's interlocal agreements with Collin and Denton Counties if the proposed development is located in whole or in part in the ETJ of the City;
  - (4) The Preliminary Plat has been duly reviewed by applicable City staff;
  - (5) The Preliminary Plat conforms to design requirements and construction standards as set forth in the *Engineering Design Standards and Construction Details*; and
  - (6) The Preliminary Plat is consistent with the adopted Comprehensive Plan, except where application of the Plan may conflict with State law (e.g., land use in the ETJ).
  - (7) The proposed development represented on the Preliminary Plat does not endanger public health, safety or welfare.
- (g) **Effect of Approval.** The approval of a Preliminary Plat shall allow the applicant to proceed with the development and platting process by submitting Construction Plans (Section 5.01) and a Final Plat (Section 4.03). Approval of the Preliminary Plat shall be deemed general approval of the subdivision's layout only, and shall not constitute approval or acceptance of Construction Plans or a Final Plat.
- (h) **Appeal of the Decision on a Preliminary Plat Application.**
- (1) **Initiation of an Appeal.** The applicant or no less than four (4) voting members of City Council may appeal the decision of the Commission by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the date of the Commission's decision.
    - a. For a City Council-initiated appeal, the Council shall consider and act on whether it will appeal the Commission's decision at its first regular meeting (for which there is time to include such appeal on its posted agenda, as required by State law) that occurs after the Commission meeting at which the decision was made.
    - b. Written notice of the City Council's vote to appeal shall be submitted to the Director of Development Services within seven (7) calendar days following the City Council's vote to appeal the decision.
    - c. For an applicant-initiated appeal, a letter stating the reasons for the appeal, citing the specific applicable section(s) of the Subdivision Ordinance, shall be submitted by the applicant.
    - d. The Director of Development Services may, on his/her own initiative, appeal the decision of the Commission by scheduling an appeal on the City Council's next regular meeting (for which there is time to include such appeal on its posted agenda as required by State law) that occurs after the Commission meeting at which the decision was made.

- (2) Council Decision. The City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. The City Council may affirm, modify or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final.

(i) **Expiration.**

- (1) Two-Year Validity. The approval of a Preliminary Plat shall remain in effect for a period of two (2) years following the date of approval, during which period the applicant shall submit and receive approval for Construction Plans and a Final Plat for the land area shown on the Preliminary Plat. If Construction Plans and a Final Plat application have not been approved within the two (2)-year period, the Preliminary Plat shall expire.
- (2) Phased Developments - Partial Construction Plans & Final Plat. If Construction Plans and a Final Plat for only a portion of the land area shown on the Preliminary Plat are approved by the end of the two (2)-year period, the Preliminary Plat for the remainder of the land not included on the Construction Plans or Final Plat shall expire on such date.
- (3) Relationship to Construction Plans. A Preliminary Plat shall remain valid for the period of time in which approved Construction Plans are valid.
- (4) Action on Final Plat. Should a Final Plat application be submitted within the two (2)-year period, but not be acted upon by the Commission within the two (2)-year period, the Preliminary Plat shall expire unless an extension is granted as provided in Section 4.02(j).
- (5) Void If Not Extended. If the Preliminary Plat is not extended as provided in Section 4.02(j), it shall expire and shall become null and void.

- (j) **Extension.** A Preliminary Plat may be extended for a period not to exceed one (1) year beyond the Preliminary Plat's expiration date. A request for extension shall be submitted to Development Services in writing at least thirty (30) calendar days prior to expiration of the Preliminary Plat, and shall include reasons why the Plat should be extended.

(1) Decision by the Director of Development Services.

- a. The Director of Development Services will review the extension request and shall approve it, approve it with conditions, or deny the extension request within thirty (30) calendar days following the official filing date of the request.
- b. Should the Director of Development Services fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.

(2) Considerations. In considering an extension, the Director of Development Services shall consider whether the following conditions exist:

- a. A Final Plat has been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
- b. Construction Plans have been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
- c. Construction is occurring on the subject property;
- d. The Preliminary Plat complies with new ordinances that impact the health, safety and general welfare of the community; and/or

- e. If there is a need for a park, school or other public facility or improvement on the property.
- (3) Conditions. In granting an extension, the decision-maker may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served. Any extension may be predicated upon compliance with new development regulations and/or the applicant waiving any vested rights.
- (4) Appeal of Denial for Extension.
  - a. Appeal of the Director's Decision. The denial of an extension by the Director of Development Services may be appealed to the Commission. A written request for such appeal shall be received by Development Services within fourteen (14) calendar days following the denial. The Commission shall hear and consider such an appeal within thirty (30) calendar days following Development Services' receipt of the appeal request.
  - b. Appeal of the Commission's Decision. The denial of an extension by the Commission may be appealed to the City Council. A written request for such appeal shall be received by the Director of Development Services within fourteen (14) calendar days following the denial. The City Council shall hear and consider such an appeal within thirty (30) calendar days following Development Services' receipt of the appeal request. The decision of the City Council is final.
- (k) **Amendments to Preliminary Plat Following Approval.**
  - (1) Minor Amendments. Minor amendments to the design of the subdivision subject to an approved Preliminary Plat may be incorporated in an application for approval of a Final Plat without the necessity of filing a new application for re-approval of a Preliminary Plat. Minor amendments may only include minor adjustments in street or alley alignments, lengths and paving details, and minor adjustments to lot lines that do not result in creation of additional lots or any non-conforming lots (such as to Zoning standards), provided that such amendments are consistent with applicable approved prior applications.
  - (2) Major Amendments. All other proposed changes to the design of the subdivision subject to an approved Preliminary Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Plat (including new fees, new reviews, new official filing date, etc.) before approval of Construction Plans and/or a Final Plat.
  - (3) Determination. The Director of Development Services shall make a determination of whether proposed amendments are deemed to be minor or major, thereby requiring new submittal of a Preliminary Plat.

### SECTION 4.03 FINAL PLATS

- (a) **Purpose.** The purpose of a Final Plat is to ensure that the proposed subdivision and development of the land is consistent with all standards of this Subdivision Ordinance pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded.
- (b) **Exceptions.** A Final Plat is not required when a Minor Plat is submitted (refer to Section 4.05).
- (c) **Ownership.**
- (1) The applicant shall furnish with the application to the City a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Final Plat.
  - (2) The Final Plat shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the Final Plat. Such consent shall be subject to review and approval by the City Attorney, and the applicant shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.
- (d) **Complete Applications for Final Plats in the Extraterritorial Jurisdiction (ETJ).** Where the land to be platted lies within the ETJ of the City in a county with which the City has an interlocal agreement under Texas Local Government Code, Chapter 242, a complete application shall be submitted to the City.
- (e) **Accompanying Applications.** An application for a Final Plat may be accompanied by Construction Plans if also accompanied by an Improvement Agreement and appropriate surety in accordance with Section 5.04. However, approval of each shall be separate and in accordance with this Section 4.03 for Final Plats and with Section 5.01 for Construction Plans.
- (f) **Prior Approved Preliminary Plat.** The Final Plat and all accompanying data shall conform to the Preliminary Plat as approved by the Commission, or as the Preliminary Plat may have been amended subsequently (Section 4.02(k)), if applicable, incorporating all conditions imposed or required by the Commission, if applicable.
- (g) **Review by Director of Development Services.** The Director of Development Services shall:
- (1) Initiate review of the plat and materials submitted.
  - (2) Request written comments from other City departments, such as Engineering Services, Fire Department, Public Works and Parks & Recreation, if deemed necessary.
  - (3) Make available plats and reports to the Commission for review.
  - (4) Upon determination that the application is ready to be acted upon, schedule the Final Plat for consideration on the agenda of the next available meeting of the Commission.

(h) **Action by Planning & Zoning Commission.** The Commission shall:

- (1) Review the Final Plat application, the findings of the Director of Development Services, and any other information available. From all such information, the Commission shall determine whether the Final Plat conforms with the regulations of this Subdivision Ordinance.
- (2) Act within thirty (30) calendar days following the official filing date of Final Plat (unless the applicant submits a Waiver of Right to 30-Day Action as outlined in Section 3.03(e)). If no decision is rendered by the Commission within the thirty (30) day period described above or such longer period as may have been agreed upon, the Final Plat, as submitted, shall be deemed to be approved.
- (3) Take one of the following actions:
  - a. Approve the Final Plat;
  - b. Approve the Final Plat with conditions, which shall mean that the Final Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Final Plat.

(i) **Criteria for Approval.** The following criteria shall be used by the Commission to determine whether the application for a Final Plat shall be approved, approved with conditions, or denied:

(1) Prior Approved Preliminary Plat.

- a. The Final Plat conforms to the approved Preliminary Plat except for minor amendments that are authorized under Section 4.02(k) and that may be approved without the necessity of revising the approved Preliminary Plat;
- b. All conditions imposed at the time of approval of the Preliminary Plat, as applicable, have been satisfied;
- c. The Construction Plans conform to the requirements of Section 5.01 and have been approved by the Director of Engineering Services;
- d. Where public improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the Director of Engineering Services;
- e. Where the Director of Engineering Services has authorized public improvements to be deferred, an Improvement Agreement has been executed and submitted by the property owner in conformity with Section 5;
- f. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Ordinance;
- g. The Final Plat meets all applicable County standards to be applied under an interlocal agreement between the City and the County under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the ETJ of the City and in the applicable County;
- h. The plat conforms to design requirements and construction standards as set forth in the *Engineering Design Standards and Construction Details*; and



- i. The plat conforms to the Development Services' subdivision application checklists.
- (2) No Prior Approved Preliminary Plat.
- a. The Final Plat conforms to all criteria for approval of a Preliminary Plat;
  - b. The Construction Plans conform to the requirements of Section 5.01 and have been approved by the Director of Engineering Services;
  - c. An Improvement Agreement or surety for installation of public improvements have been prepared and executed by the property owner in conformance with Section 5;
  - d. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Ordinance;
  - e. The Final Plat meets all applicable County standards to be applied under an interlocal agreement between the City and the County under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the ETJ of the City and in the applicable County; and
  - f. The Final Plat conforms to the Development Services' application checklist.
- (j) **Procedures for Recordation Upon Approval.** The applicant shall supply to Development Services the required number of signed and executed copies of the Final Plat that will be needed to file the Plat, upon approval, at the applicable County (in the County's required format) at least seven (7) calendar days prior to the Planning & Zoning Commission meeting at which it will be considered for approval.
- (1) General.
- a. Signatures. After approval of the Final Plat, the Director of Development Services shall procure the appropriate City signatures on the Final Plat.
  - b. Recording Upon Performance. The Final Plat shall be recorded after:
    - 1. The Final Plat is approved by the City;
    - 2. All required public improvements have been completed and accepted by the City (or an Improvement Agreement has been executed and appropriate surety provided in accordance with Section 5.04);
    - 3. All County filing requirements are met.
- (2) Submittal of Final Plat Where Improvements Installed. Where all required public improvements have been installed prior to recording of the Final Plat, the applicant shall meet all requirements in accordance with Section 5.
- (3) Submittal of Final Plat Where Improvements Have Not Been Installed. Where some of or all required public improvements are not yet completed in connection with an approved Final Plat, the applicant shall submit the Final Plat as approved by the Commission, revised to reflect any conditions imposed by the Commission as part of approval.
- (4) Update of Proof of Ownership. If there has been any change in ownership since the time of the Proof of Ownership provided under Section 4.03(c), the applicant shall submit a new consent agreement executed by each owner consenting to the platting of the property and the dedications and covenants contained in the plat. The title commitment or title opinion

letter and consent agreement shall be subject to review and approval by the City Attorney, and the applicant shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.

(k) **Effect of Approval.** The approval of a Final Plat:

- (1) Supersedes any prior approved Preliminary Plat for the same land.
- (2) Authorizes the applicant to install any improvements in public rights-of-way in conformance with approved Construction Plans and under an Improvement Agreement (refer to Section 5), if applicable,
- (3) Authorizes the applicant to seek Construction Release (refer to Section 5.01(ii)) and/or issuance of a Building Permit.

(l) **Appeal of Decision of Final Plat Application.** Appeal of a decision on a Final Plat application shall be as outlined in Section 4.02(h).

(m) **Revisions Following Recording/Recordation.** Revisions may only be processed and approved as a Replat or Amending Plat, as applicable.

#### SECTION 4.04 CONVEYANCE PLATS

(a) **Purpose.** The purpose of a Conveyance Plat is to subdivide land and to provide for recordation of same, for the purpose of conveying (i.e., selling) the property without developing it. A Conveyance Plat may be used to convey the property or interests therein; however, a Conveyance Plat does not constitute approval for any type of development on the property. A Conveyance Plat is an interim step in the subdivision and development of land.

(b) **Applicability.** A Conveyance Plat may be used in lieu of a Final Plat to record the subdivision of property in the following instances:

- (1) To record the remainder of a tract that is larger than five (5) acres, and that is created by the final platting of a portion of the property, provided that the remainder is not intended for immediate development.
- (2) To record the subdivision of property into parcels, five (5) acres or smaller in size, that are not intended for immediate development, provided all required public improvements exist to the City's current standards prior to approval and minimum frontage requirements are met. All public rights-of-way must be dedicated and all abutting streets and utilities must be installed and accepted by the City. Installation of on-site improvements may be delayed if development of other tracts is not affected.

(c) **Review and Consideration.** Unless otherwise specified within this Section 4.04 for specific requirements for a Conveyance Plat, a Conveyance Plat shall be processed and approved using the same timing and procedures, including recordation, as specified for a Final Plat; refer to Section 4.03. Procedures to appeal a decision on a Conveyance Plat shall also be processed and considered the same as a Final Plat (Section 4.03).



- (d) **Subsequent Filing of a Final Plat.** No Final Plat processed and approved in association with a Conveyance Plat shall be filed without the concurrent or prior filing of the associated approved Conveyance Plat for the remainder of the subject property.
- (e) **Conveyance Plat Requirements.**
- (1) No building or development permits shall be issued nor permanent utility service provided for land that has only received approval as a Conveyance Plat; a Final Plat must be filed for building and development permits and for utility service. Notwithstanding the above, the Chief Building Official may authorize temporary building permits, temporary occupancy permits, and temporary utility service.
  - (2) A Conveyance Plat may be superseded by a revised Conveyance Plat or a Final Plat in total or in part through compliance with the procedures and requirements of this Ordinance.
- (f) **Standards for Approval.**
- (1) Access – All lots created by a Conveyance Plat shall have frontage and access to an existing or proposed public street, defined on the Major Thoroughfare Plan, or an existing standard street meeting City construction standards and accessing the existing City street system. All lots created by a Conveyance Plat shall provide points of access as required by the Zoning Ordinance and/or by this Ordinance.
  - (2) Dedication of Rights-of-Way – Dedication of rights-of-way shall be required in accordance with the City's *Thoroughfare and Circulation Design Requirements*.
- (g) **Effect of Approval.** The approval of a Conveyance Plat authorizes conveyance of the lot(s) created thereon, but does not authorize any type of development on the property. The applicant and future owner(s) of the property remain obligated to comply with all provisions in this Ordinance upon future development of the property including, but not limited to, all requirements for platting, required public improvements, utility extensions, street improvements or assessments, right-of-way and easement dedications, and all other requirements in this Ordinance.

#### **SECTION 4.05 MINOR PLATS**

- (a) **Purpose.** The purpose of a Minor Plat is to simplify divisions of land under certain circumstances outlined in State law.
- (b) **Applicability.** An application for approval of a Minor Plat may be filed only in accordance with State law, when all of the following circumstances apply:
- (1) The proposed division results in four (4) or fewer lots;
  - (2) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the requirements of this Subdivision Ordinance; and
  - (3) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

- (c) **Application Requirements.** The requirements for the submittal of a Minor Plat shall be the same as the requirements for a Final Plat, as outlined in Section 4.03.
- (d) **Review by Director of Development Services.** The Director of Development Services shall:
- (1) Initiate review of the plat and materials submitted.
  - (2) Request written comments from other City departments, such as Engineering Services, Fire Department, Public Works and Parks & Recreation, if deemed necessary.
- (e) **Action by Director of Development Services.** The Director of Development Services shall:
- (1) Determine whether the Minor Plat meets the regulations of this Subdivision Ordinance.
  - (2) Act within thirty (30) calendar days following the official filing date of a completed application for a Minor Plat (unless the applicant submits a Waiver of Right to 30-Day Action as outlined in Section 3.03(e)). If no decision is rendered by the Director of Development Services, or if the Director has not deferred the application to the Planning & Zoning Commission for decision, within the thirty (30) day period described above or such longer period as may have been agreed upon, the Minor Plat, as submitted, shall be deemed to be approved.
  - (3) Take one of the following actions:
    - a. Approve the Minor Plat;
    - b. Approve the Minor Plat with conditions, which shall mean that the Minor Plat shall be considered to have been approved once such conditions are fulfilled; or
    - c. Defer the Minor Plat to the Commission for consideration prior to expiration of the required 30-day approval period unless a Waiver of Right to 30-Day Action is submitted in accordance with Section 3.03(e).
- (f) **Criteria for Approval.** The following criteria shall be used by the Director of Development Services to determine whether the application for a Minor Plat shall be approved, approved with conditions, or denied:
- (1) The Minor Plat is consistent with all zoning requirements for the property (if applicable), any approved Improvement Agreement (if applicable), and all other requirements of this Subdivision Ordinance that apply to the plat;
  - (2) All lots to be created by the plat already are adequately served by improved public street access and by all required City utilities and services and by alleys, if applicable;
  - (3) The ownership, maintenance and allowed uses of all designated easements have been stated on the Minor Plat; and
  - (4) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.
- (g) **Procedures for Recordation Following Approval.** The procedures for recordation of a Minor Plat shall be the same as the procedures for recordation of a Final Plat, as outlined in Section 4.03.

(h) **Appeal of Decision on Minor Plat Application.**

- (1) Commission Decision. If the Director of Development Services defers the Minor Plat application to the Planning & Zoning Commission, the Commission shall consider the application at a regular meeting no later than thirty (30) calendar days after the date on which the Director of Development Services deferred the application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:
  - a. Approve the Minor Plat;
  - b. Approve the Minor Plat with conditions, which shall mean that the Minor Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Minor Plat.
- (2) Appeal. The decision of the Commission may be appealed to the City Council in accordance with the procedures for an appeal on a Final Plat decision, which are outlined in Section 4.03. The City Council decision is final.

- (i) **Revisions Following Approval.** Revisions may only be processed and approved as a Replat or Amending Plat, as applicable.

**SECTION 4.06 REPLATS AND AMENDING PLATS – GENERAL REQUIREMENTS**

(a) **Applicability and Terminology.**

- (1) The procedures outlined in this Section and in subsequent Sections 4.07, 4.08 and 4.09 shall apply only if a property owner seeks to change any portion of a plat that has been filed of record with the appropriate County.
- (2) The term “Replat” includes changes to a recorded final plat, whether the change is effected by replatting without vacation (Section 4.07), replatting by vacating the recorded plat and approving a new application (Section 4.09), or approving an Amending Plat (Section 4.08).

- (b) **City Action Required.** Unless otherwise specified, any change to a recorded plat shall be subject to approval by the Commission.

- (c) **Construction Management.** If the subdivision as replatted requires construction of additional improvements, the provisions of Section 5 shall apply. If the subdivision as replatted does not require any appreciable alteration or improvement of utility installations, streets, alleys, building setback lines, etc., then no Construction Plans shall be required.

- (d) **Application and Approval Procedures.** Unless otherwise specified, application and all related procedures and approvals, including recordation, for a Replat or Amending Plat shall be the same as specified for a Final Plat, as outlined in Section 4.03.

## SECTION 4.07 REPLATS

- (a) **Purpose & Applicability.** A Replat of all or a portion of a recorded plat may be approved in accordance with State law without vacation of the recorded plat, if the Replat:
- (1) Is signed and acknowledged by only the owners of the property being replatted;
  - (2) Is approved after a public hearing; and
  - (3) Does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.
- (b) **General Notice and Hearing Requirements.** Published notice of the public hearing on the Replat application shall be given in accordance with Section 3.05 and State law, if applicable (also see specific notice and hearing requirements for special replats in Section 4.07(d)(3)). The public hearing shall be conducted by the Commission.
- (c) **Partial Replat Application.** If a Replat is submitted for only a portion of a previously platted subdivision, the Replat must reference the previous subdivision name and recording information, and must state on the Replat the specific lots which are being changed along with a detailed "Purpose for Replat" statement.
- (d) **Special Replat Requirements.**
- (1) Applicability. A Replat without vacation of the preceding plat, in accordance with State law, must conform to the requirements of this Section 4.07(d) if:
    - a. During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
    - b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
  - (2) Exception. The requirements of this Section 4.07(d) shall not apply to any approval of a Replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single- or duplex-family residential usage. Such designation must be noted on the recorded plat or in the legally recorded restriction applicable to such plat.
  - (3) Notice and Hearing. Notice of the required public hearing shall be given before the fifteenth (15<sup>th</sup>) calendar day before the date of the hearing by:
    - a. Publication in an official newspaper or a newspaper of general circulation in the applicable City or unincorporated area (as applicable) in which the proposed replat property is located; and
    - b. By written notice, with a copy of Section 212.015(c) of the Texas Local Government Code (as amended) attached, forwarded by the City to the owners of lots that are in the original subdivision and that are within two hundred feet (200') of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the

case of a subdivision within the ETJ, the most recently approved applicable county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the City.

- (4) **Protest.** If the Replat application is accompanied by a Waiver petition (per Section 9.01) and is protested in accordance with this Section 4.07(d), approval of the Replat shall require the affirmative vote of at least three-fourths of the voting members of the Commission present at the meeting. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the Replat application and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the Commission prior to the close of the public hearing. The area of streets and alleys shall be included in the area computations.
- (e) **Review and Consideration.** The review and approval processes for a Replat shall be the same as the review and approval processes for a Final Plat (except for the public hearing and notice requirements described in Section 4.07(d)(3)), which are outlined in Section 4.03. The Director of Development Services shall be the responsible official and the Commission shall be the initial decision-maker for a Replat application. Procedures to appeal a decision on a Replat shall also be processed and considered the same as a Final Plat (Section 4.03).
- (f) **Effect.** Upon approval and recording of the Replat, it is controlling over the previously recorded plat for the portion replatted.

#### **SECTION 4.08 AMENDING PLATS**

- (a) **Purpose.** The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions to a recorded plat consistent with provisions of State law.
- (b) **Applicability.** The procedures for an Amending Plat shall apply only if the sole purpose of the Amending Plat is to achieve one or more of the following:
- (1) Correct an error in a course or distance shown on the preceding plat;
  - (2) Add a course or distance that was omitted on the preceding plat;
  - (3) Correct an error in a real property description shown on the preceding plat;
  - (4) Indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor responsible for setting monuments;
  - (5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
  - (6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
  - (7) Correct an error in courses and distances of lot lines between two adjacent lots if:

- a. Both lot owners join in the application for amending the plat;
  - b. Neither lot is abolished;
  - c. The amendment does not attempt to remove recorded covenants or restrictions; and
  - d. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
- (8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (9) Relocate one or more lot lines between one or more adjacent lots if:
  - a. The owners of all those lots join in the application for amending the plat;
  - b. The amendment does not attempt to remove recorded covenants or restrictions; and
  - c. The amendment does not increase the number of lots;
- (10) Make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
  - a. The changes do not affect applicable zoning and other regulations of the municipality;
  - b. The changes do not attempt to amend or remove any covenants or restrictions; and
  - c. The area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or
- (11) Replat one or more lots fronting on an existing street if:
  - a. The owners of all those lots join in the application for amending the plat;
  - b. The amendment does not attempt to remove recorded covenants or restrictions;
  - c. The amendment does not increase the number of lots; and
  - d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (c) **Certificates of Correction.** Certificates of Correction are prohibited.
- (d) **Notice.** In accordance with State law, the approval and issuance of an Amending Plat shall not require notice, hearing or approval of other lot owners.
- (e) **Review by Director of Development Services.** The Director of Development Services shall:
  - (1) Initiate review of the plat and materials submitted.
  - (2) Request written comments from other City departments, such as Engineering Services, Fire Department, Public Works and Parks & Recreation, if deemed necessary.
- (f) **Action by Director of Development Services.** The Director of Development Services shall:
  - (1) Determine whether the Amending Plat meets the regulations of this Subdivision Ordinance.



- (2) Act within thirty (30) calendar days after the application is deemed complete per Section 3.03(g)
- (3) Take one of the following actions:
  - a. Approve the Amending Plat;
  - b. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Defer the Amending Plat to the Commission for consideration prior to expiration of the required 30-day approval period unless a Waiver of Right to 30-Day Action is submitted in accordance with Section 3.03(e).
- (g) **Procedures for Recordation Following Approval.** The procedures for recordation of an Amending Plat shall be the same as the procedures for recordation of a Final Plat, as outlined in Section 4.03.
- (h) **Effect.** Upon approval, an Amending Plat shall be recorded and is controlling over the previously recorded plat without vacation of that plat.
- (i) **Appeal of Decision on Amending Plat Application.**
  - (1) Commission Decision. If the Director of Development Services defers the Amending Plat application to the Planning & Zoning Commission, the Commission shall consider the application at a regular meeting no later than thirty (30) calendar days after the date on which the Director of Development Services deferred the application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:
    - a. Approve the Amending Plat;
    - b. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled; or
    - c. Deny the Amending Plat.
  - (2) Appeal. The decision of the Commission may be appealed to the City Council in accordance with the procedures for an appeal on a Final Plat decision, which are outlined in Section 4.03. The City Council decision is final.

#### **SECTION 4.09 PLAT VACATION**

- (a) **Purpose.** The purpose of a Plat Vacation is to provide an expeditious means of vacating a recorded plat in its entirety, consistent with provisions of State law.
- (b) **Initiation of a Plat Vacation.**
  - (1) By Property Owner. The property owner of the tract covered by a plat may submit an application to vacate the plat at any time before any lot in the plat is sold.
  - (2) By All Lot Owners. If lots in the plat have been sold, an application to vacate the plat must be submitted by all the owners of lots in the plat.

- (3) **City Council.** If the City Council, on its own motion, determines that the plat should be vacated in the interest of and to protect the public's health, safety and welfare; and:
- No lots within the approved plat have been sold within five (5) years following the date that the Final Plat was approved by the City; or
  - The property owner has breached an Improvement Agreement, and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successor; or
  - The plat has been of record for more than five (5) years, and the City Council determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.
- (c) **Notice.** Published notice of the public hearing on the Plat Vacation application shall be given in accordance with Section 3.05 and State law. The hearing shall be conducted by the City Council.
- (d) **Review by Director of Development Services.** The Director of Development Services shall:
- Initiate review of the Plat Vacation application and materials submitted.
  - Request written comments from other City departments, such as Engineering Services, Fire Department, Public Works and Parks & Recreation, if deemed necessary.
- (e) **Action by the City Council.** The City Council shall:
- Review the Plat Vacation application, the findings of the Director of Development Services, and any other information available. From all such information, the City Council shall make a finding as to whether or not the plat should be vacated. The City Council's decision on a Plat Vacation shall be final.
  - Take one of the following actions:
    - Approve the Plat Vacation;
    - Approve the Plat Vacation with conditions, which shall mean that the Plat Vacation shall be considered to have been approved once such conditions are fulfilled; or
    - Deny the Plat Vacation.
- (f) **Procedures for Recordation Following Approval.** If the City Council adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the County Clerk's Office. If the City Council adopts a resolution vacating a plat in part, it shall cause a revised Final Plat to be recorded along with the resolution which shows that portion of the original plat that has been vacated and that portion that has not been vacated.
- (g) **Effect.**
- On the execution and recording of the vacating instrument, the previously filed plat shall have no effect. Regardless of the City Council's action on the petition, the property owner(s) or developer will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the City Council.



- (2) The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
- (3) The City Council, at its discretion, shall have the right to retain all or specific portions of road rights-of-way or easements shown on the plat being considered for vacation. However, the City Council shall consider plat vacation upon satisfactory conveyance of easements and/or rights-of-way in a separate legal document using forms provided by the City Attorney's office.

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## ***SECTION 5: CONSTRUCTION PLANS & PROCEDURES***

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### ***SECTION 5.01 CONSTRUCTION PLANS***

- (a) **Purpose.** To require that required public improvements be installed to serve a development in accordance with all the Subdivision Ordinance standards.
- (b) **Submitting Plans.** Plans shall be submitted in accordance with Engineering Services requirements, as provided in the Development Application Handbook. Incomplete plans shall not be accepted and such plans shall be returned to the applicant.
- (c) **Responsible Official and Decision.** The Director of Engineering Services shall be the responsible official for review and approval of Construction Plans. The Director of Engineering Services shall also be the initial decision-maker for Construction Plans. In this capacity, therefore, the Director of Engineering Services shall approve, approve subject to modifications, or deny the Construction Plans.
- (d) **Approval Required & Timing of Construction.** Construction Plans must be approved in accordance with this Section prior to the approval and/or recordation of the Final Plat, unless otherwise stated within the Subdivision Ordinance.
- (e) **Criteria for Approval.** The Director of Engineering Services shall approve Construction Plans if:
  - (1) The plans are consistent with the approved Preliminary Plat, or the proposed Final Plat; and
  - (2) The plans conform to the subject property's zoning and Planned Development standards (including zoning design standards), and to the standards for adequate public facilities, contained in this Subdivision Ordinance and all other applicable municipal codes.
- (f) **Effect.** Approval of Construction Plans authorizes the applicant to schedule a Pre-Construction Meeting in accordance with Section 5.02 and apply for Construction Release in accordance with Section 5.01(i).
- (g) **Expiration.** The approval of Construction Plans shall remain in effect for a period of one (1) year from the date of approval, or for the duration of construction of the project provided that progress toward completion of the project continues to be demonstrated. Unless extended in accordance with Section 5.01(h), the Construction Plans shall expire in one (1) year if construction of all required improvements has not occurred, a Final Plat for the land subject to the Construction Plans has not been approved (with applicable Improvement Agreement and surety, per Section 5.04), and satisfactory forward progress toward completion of required improvements has not been demonstrated.

- (h) **Extension.** Construction Plans may be extended for a period of six (6) additional months beyond the expiration date. A request must be made in writing to Engineering Services for such extension prior to expiration of the plans, and shall include reasons why the plans should be extended.

(1) Decision by the Director of Engineering Services.

- a. The Director of Engineering Services will review the extension request, and shall approve, approve with conditions, or deny the extension request within thirty (30) calendar days following the official filing date.
- b. Should the Director of Engineering Services fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.

(2) Consideration. The Director of Engineering Services shall extend Construction Plans approval for a period of six (6) additional months beyond the Plans' expiration date if:

- a. A Final Plat has been submitted, approved or filed of record for any portion of the property shown on the Construction Plans;
- b. The Construction Plans comply with new ordinances that impact the health, safety and general welfare of the community;
- c. Demonstrable forward progress has been made to proceed with construction or required improvements; and
- d. An Improvement Agreement (Section 5.04), if applicable, is still valid and in full effect.

(3) Conditions. In granting an extension, the Director of Engineering Services may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served. Any extension may be predicated upon compliance with new development regulations and/or the applicant waiving any vested rights.

(4) Total Extension. A second, six (6) month extension may be requested using the same process outlined above.

- (i) **Construction Release.** Upon approval of the Preliminary Plat and the Construction Plans, receipt of all documentation (e.g., insurance information, bonds, etc.) and fees required by Engineering Services, and after the Pre-Construction Meeting with City staff (Section 5.02), the Director of Engineering Services shall release the plans for construction if all City requirements pertaining to construction have been met. The Construction Release shall remain in effect for a period of one (1) year from the date of issuance, or for the duration of construction of the project, provided that progress toward completion of the project continues to be demonstrated. Expiration, and possible extension, of the Construction Release shall be the same as for the Construction Plans (see Sections 5.01(g) and 5.01(h)).

### SECTION 5.02 PRE-CONSTRUCTION MEETING

- (a) **Requirement.** The applicant(s) shall attend a Pre-Construction Meeting with Engineering Services following the approval of Construction Plans and prior to commencement of any construction on the property.
- (b) **Purpose.** The purpose of the Pre-Construction Meeting is to discuss administrative, communication, and operating procedures for project construction prior to Construction Release (refer to Section 5.01(i)) or issuance of a Building Permit. A list of typical inspection items, procedures and acceptance criteria for items in public right-of-way and easements will also be furnished to the applicant.
- (c) **Notice.** The applicant shall receive written notice from the Director of Engineering Services that Construction Plans have been approved and that the project is eligible for a Pre-Construction Meeting.
- (d) **Effect.** Following the Pre-Construction Meeting and upon approval of the Construction Plans and full compliance with all pre-construction requirements, the Director of Engineering Services shall authorize Construction Release (see Section 5.01(i)), allowing the applicant to commence with construction of the project. The applicant may also be issued a Building Permit, if appropriate, provided that a Building Permit application has been submitted and approved and all other Building Permit requirements have also been met.

### SECTION 5.03 TIMING OF PUBLIC IMPROVEMENTS

- (a) **Completion Prior to Final Plat Approval & Recordation.** Completion of all required public improvements, in accordance with the approved Preliminary Plat and the approved Construction Plans, shall occur prior to Final Plat approval and recordation. A Final Plat shall not be accepted for filing, nor shall it be considered for approval, prior to completion of such improvements except as provided in Section 5.03(b).
- (b) **Completion After Final Plat Approval & Recordation.** The Director of Engineering Services, upon written request by the applicant, may allow construction of public improvements after Final Plat approval and recordation. Such postponement shall be conditioned on execution of an Improvement Agreement and provision of security, in accordance with Section 5.04. It shall be at the Director's discretion to determine whether postponing construction of public improvements until after Final Plat approval and recordation is appropriate, and therefore, whether financial guarantee is acceptable through an Improvement Agreement.
- (c) **Deferral of Obligation.** The Director of Engineering Services may defer the developer's obligation to dedicate rights-of-way for, or to construct, public improvements to serve a new development upon execution of an Improvement Agreement and upon provision of adequate security (see Section 5.04).

- (d) **Phased Development.** If the development is being platted and constructed in phases, improvements shall be completed as platted areas are approved and phases are constructed. Also refer to Section 4.02(i) for details regarding phased development and Preliminary Plat validity.
- (e) **Easements for Utility Providers.** The applicant is responsible for contacting all utility providers prior to beginning construction, and for securing all necessary easements for same prior to Final Plat approval and recordation. The applicant's engineer shall provide the Director of Engineering Services with written certification that all necessary easements are secured for the various utility providers, and such easements shall be shown on the Final Plat with the recording information for each.
- (f) **Off-Site Easements.** All necessary off-site easements required for installation of required off-site public improvements to serve the development shall be acquired by the applicant prior to the Pre-Construction Meeting (see Section 5.02), or prior to approval and recordation of the Final Plat, whichever occurs first. Off-site easements shall be conveyed and recorded at the County by an instrument approved by the City. If the property on which the off-site easement is required has been platted, a replat is required to dedicate the easement.

#### SECTION 5.04 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION

- (a) **Improvement Agreement and Security for Completion.** When any of the required public improvements will be postponed and constructed after Final Plat approval and recordation, the Final Plat shall not be accepted for filing, nor shall it be approved, unless and until the applicant enters into an Improvement Agreement by which the applicant:
  - (1) Will complete the improvements;
  - (2) Warrants the improvements for a period of two (2) years following final acceptance by the City;
  - (3) Provide a maintenance bond in the amount of one hundred and ten percent (110%) of the costs of the improvements for such period;
  - (4) Provides provisions for securing the obligations of the agreement consistent with Section 5.04(e); and
  - (5) Outlines other terms and conditions as are agreed to by the applicant and the City, or as may be required by this Subdivision Ordinance.
- (b) **Agreement to Run with the Land.** The Improvement Agreement shall provide that the covenants and other items of agreement contained therein shall run with the land and shall bind all successors, heirs and assignees of the applicant. All existing owners shall be required to execute the agreement or provide written consent to the covenants and other items contained in the agreement.
- (c) **Decision by the Director of Engineering Services.** The Director of Engineering Services shall review the Improvement Agreement, and shall approve it, approve it with conditions, or deny it. The agreement shall also be subject to review by the City Attorney prior to any approval by the Director

of Engineering Services, and the applicant shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.

- (d) **Appeal of Decision.** The applicant may appeal the Director of Engineering Services' decision on the Improvement Agreement to the City Council by submitting written notice of appeal to the Director of Engineering Services within fourteen (14) calendar days following the date of such decision. The City Council shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal. The City Council may only overturn the Director of Engineering Services' decision upon a favorable vote of at least four (4) of the Council's voting members, and the Council's decision shall be final.

(e) **Security for Completion of Improvements.**

- (1) Type of Security. When any of the required public improvements will be constructed after approval and recordation of the Final Plat, the applicant shall guarantee proper construction of such postponed improvements, in accordance with the City's design standards and with this Subdivision Ordinance, by a bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City, on the form provided by the City. The performance bond shall be approved as to form by the City Attorney;
- (2) Estimated Cost & Security Approval. Security shall be issued in the amount of one hundred and ten percent (110%) of the cost to construct and complete all required public improvements to the City's standards as estimated by the applicant's professional engineer, and as approved by the Director of Engineering Services. Security shall be subject to the review and approval of the City Attorney. The applicant shall reimburse the City for all related legal costs for review (this reimbursement shall be paid in full prior to filing of the Final Plat).
- (3) Security for Construction in Extraterritorial Jurisdiction (ETJ). Where all or some portion of the proposed development is located in the City's ETJ, the security shall be in a form and shall contain such terms as are consistent with the City's interlocal agreements with Collin and Denton Counties (as applicable) under Texas Local Government Code, Chapter 242. In cases where the requirements governing the form and terms of the security are defined in such an agreement, they will supersede any conflicting provisions within this Subdivision Ordinance.

(f) **Escrow Policies and Procedures.**

- (1) Request for Escrow. The City may require or the developer may petition the City to defer required improvements in exchange for a deposit of escrow. An example may include a timing issue due to pending street improvements by another agency such as TxDOT. The Director of Engineering Services may require studies and other information to support the developer's request to escrow.
- (2) Escrow Deposit With the City. When the Director of Engineering Services requires or agrees to accept escrow deposits, the developer shall deposit in escrow with the City an amount equal to one hundred and ten percent (110%) of the total "turnkey" costs including, but not limited to, the design, permitting, acceptance and inflation costs related to the

- improvement(s). The Director of Engineering Services shall review and approve the amount, which shall be approved and paid prior to recordation of the Final Plat.
- (3) City Usage of Escrowed Funds. The City may also use the escrowed funds in participation with another entity (such as TxDOT, Collin or Denton County, etc.) to jointly construct the public improvement(s).
  - (4) Termination of Escrow. Escrows, or portions of escrowed amounts, which remain unused after a period of ten (10) years following the date of such payment shall, upon written request, be returned to the developer. Such return of escrowed funds does not remove any obligations of the developer for construction of the required improvement(s).
  - (5) Refund. If all or a portion of a street or other type of public improvement for which escrow is deposited is constructed by a party other than the City, the remaining unused escrowed funds, upon written request, be refunded to the developer after completion and City acceptance of the street or public improvement.
  - (6) Interest on Escrowed Funds. When escrowed funds are returned or refunded to the escrowing developer, the City shall retain all of the interest accrued by the funds.
  - (7) Escrow Fee Agreement. The Director of Engineering Services, at his/her discretion, may require an escrow fee agreement be executed.

#### **SECTION 5.05 INSPECTION, MAINTENANCE & ACCEPTANCE OF PUBLIC IMPROVEMENTS**

##### **(a) Inspections.**

- (1) The Director of Engineering Services shall inspect the construction of improvements while in progress, as well as upon completion. The applicant, or his contractor, shall maintain contact with the Director of Engineering Services during construction of improvements.
- (2) Construction shall be in accordance with the approved Construction Plans. Any significant change in design required during construction shall be made by the applicant's engineer, and shall be subject to approval by the Director of Engineering Services.
- (3) If the Director of Engineering Services finds, upon inspection, that any of the required public improvements have not been constructed properly and in accordance with the approved Construction Plans, the applicant shall be responsible for completing and/or correcting the public improvements to bring such into compliance.

##### **(b) Maintenance During Construction.** The applicant shall maintain all required public improvements during construction of the development.

##### **(c) Submission of Record Drawings.** The City shall accept required public improvements when the applicant's engineer has certified to the Director of Engineering Services, through submission of detailed "record" drawings of the project and filed copies of any off-site easements, unless otherwise noted within the Subdivision Ordinance, that the public improvements have been built in accordance with the approved Construction Plans. The City shall not accept improvements until the Final Plat is approved by the City and recorded at the County. Each record drawing sheet shall show all changes made in the plans during construction, and on each sheet, there shall be a



“record” stamp bearing the signature of the engineer and date. Detailed requirements for such drawings are available in Engineering Services.

**(d) Acceptance or Rejection of Improvements by Director of Engineering Services.**

- (1) Responsible Official. The Director of Engineering Services shall be responsible for inspecting all required public improvements shown in the Construction Plans, and for accepting completed subdivision improvements intended for dedication to the City.
- (2) Final Inspection. After completion of all improvements, franchise utilities, grading, and erosion control, the Director of Engineering Services, the Director of Public Works, the Director of Parks & Recreation, and other designated representatives (as applicable) will perform a final inspection before recommending acceptance of the improvements.
- (3) Letter of Final Acceptance. If all improvements are completed, inspected, tested (if applicable), and determined by the City to be in conformance with this Subdivision Ordinance and with the City’s design standards, then the Director of Engineering Services shall issue a Letter of Final Acceptance to the applicant, thereby notifying the applicant of the City’s acceptance.
- (4) Meaning of Acceptance. Acceptance of the improvements shall mean that the applicant has transferred all rights to all the public improvements to the City for title, use and maintenance.
- (5) Rejection. The Director of Engineering Services shall reject those improvements that fail to comply with the City’s standards and specifications. The City shall enforce the guarantee provided by agreement(s).

(e) **Disclaimer.** Approval of a Preliminary Plat or Final Plat by the Commission, or Construction Plans by the Director of Engineering Services, shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the City except in accordance with this Section.

(f) **Acceptance of Improvements for Land in Extraterritorial Jurisdiction (ETJ).** Where the improvements to be constructed under an Improvement Agreement are located within the City’s ETJ and are to be dedicated to a County, the Director of Engineering Services shall inform the County that the public improvements have been constructed in accordance with approved Construction Plans, and are ready for acceptance by the County.

(g) **Maintenance Bond Following Acceptance.** The applicant shall furnish to the Director of Engineering Services a sufficient maintenance bond with a reputable and solvent corporate surety registered with the State of Texas, in favor of the City, to indemnify the City against any repairs. The bond shall be in effect for two (2) years from the date of final acceptance of the entire project. The bond, which is a part of the requirements for final acceptance, shall be a minimum of one hundred and ten percent (110%) of the value of the work constructed. Final acceptance shall be withheld until said maintenance bond is furnished to the City in a form acceptable by the City Attorney. Once the maintenance bond has been examined and approved by the City Attorney, the City Attorney shall certify the bond is valid and enforceable as provided by law prior to recommending acceptance by the Director of Engineering Services. The applicant shall reimburse

the City for all related legal costs for review (this reimbursement shall be paid in full prior to filing of the Final Plat).

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## SECTION 6

*(Reserved for future use...)*

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## **SECTION 7: SPECIAL EXTRATERRITORIAL JURISDICTION POLICIES & REGULATIONS**

### **SECTION 7.01 GENERAL POLICIES IN THE EXTRATERRITORIAL JURISDICTION (ETJ)**

- (a) **Application of Requirements.** Unless otherwise stated within this Subdivision Ordinance, all standards, specifications and regulations shall apply to development within the City's extra-territorial jurisdiction (ETJ).
- (b) **Extension of Services.** Given that land proposed for development in the City's ETJ must be served adequately by essential public facilities and services, including those related to adequate water distribution, wastewater collection and treatment, streets, pedestrian circulation, storm drainage conveyance, and park and recreational facilities, the following policies for the provision of infrastructure services into the City's ETJ shall apply:
- (1) It is in the City's best interest to encourage development in areas adjacent to compatible development already receiving City services, and particularly where those services have excess capacity.
  - (2) It is in the City's best interest to discourage development in remote areas as well as those areas that exhibit environmental hazards.
  - (3) It is in the City's best interest to annex areas that:
    - a. Need to be protected in order to prevent or reduce flood damage in existing urban areas;
    - b. Possess unique physical characteristics;
    - c. Have requested City services; or
    - d. Minimize the City's fiscal liability.
  - (4) It is in the City's best interest to withhold all water and sewer extensions outside the City's limits except in instances where the extension will serve a large-volume user(s) who has agreed in writing to annexation at a predetermined date, and who has demonstrated that a significant community benefit will accrue to the City if it provides such service outside the City's limits, and where no significant fiscal liabilities will be incurred by the City.
  - (5) It is in the City's best interest to provide services, other than water and wastewater service, to individual users beyond the City's limits:
    - a. Upon request and under contracts or cost-sharing arrangements that minimize future City fiscal liability;
    - b. Upon request and under contracts or cost-sharing arrangements that encourage compact development;

- c. Upon request and under contracts or cost-sharing arrangements that ensure compliance with City subdivision, building, electrical, plumbing and fire codes; and
  - d. When it is not in the City's best interest to annex the areas to be served.
- (6) The City shall therefore provide for extension of public facilities and services only under the following circumstances:
  - a. Such extension is part of an annexation agreement that provides for development consistent with established City objectives and policies, such as the Comprehensive Plan;
  - b. Such extension allows the City to retain its right under State law to annex the property in the future;
  - c. The quality of the development that is occurring is consistent with City standards (if applicable);
  - d. The use or development offers significant public benefits to the City; and
  - e. The proposed development and land uses comply with City Building and Fire Codes (as agreed to in an annexation agreement with the City).
- (c) **Design and Construction Standards for Public Improvements in the City's Extraterritorial Jurisdiction (ETJ).** All public improvements constructed in conjunction with a new development in the City's ETJ shall be designed, engineered and constructed in accordance with the City's standards as set forth in the *Engineering Design Standards and Construction Details*, the *Thoroughfare and Circulation Design Requirements*, and all other applicable City master plans (e.g., water and wastewater master plans, master storm drainage plans, the *Comprehensive Plan*, etc.).

## SECTION 7.02 COLLIN & DENTON COUNTY REGULATIONS

- (a) **Interlocal Agreements.** The City has executed separate interlocal cooperation agreements as authorized under Chapter 242 of the Texas Local Government Code with both Collin County and Denton County.
  - (1) Collin County has assigned to the City its authority to approve plats in the City's ETJ. The agreement also provides for the City to enforce its subdivision regulations, together with specified regulations of Collin County, within the City's ETJ. (For specific responsibilities, see the separate interlocal agreement, Resolution No. 06-02-28R.)
  - (2) Denton County has assigned to the City its authority to approve plats in the City's ETJ. The agreement also provides for the City to enforce its subdivision regulations, together with specified regulations of Denton County, within the City's ETJ. (For specific responsibilities, see the separate interlocal agreement, Resolution No. 02-03-66R.)
- (b) **Conflict of Regulations.** In the event that the subdivision rules and regulations of the applicable County provide a more stringent standard than the City's, then the more stringent County standard shall apply.

**SECTION 7.03 CITY PARTICIPATION IN IMPROVEMENTS IN THE EXTRATERRITORIAL JURISDICTION (ETJ)**

- (a) **Improvements.** The City shall not be required to participate in the cost of any improvements where such improvements required by this Ordinance are outside the corporate limits of the City (i.e., they are within the City's ETJ area).
- (b) **Certificates of Occupancy/Utility Connections.**
  - (1) A Certificate of Occupancy for non-residential and multifamily projects within the City's ETJ shall not be issued until a Letter of Final Acceptance (refer to Section 5.05(d)) has been issued by the City, and a copy of such Letter has been submitted to the Building Official by the developer, unless otherwise authorized by the City Manager or designee.
  - (2) Utility connections for all developments in the City's ETJ shall not be issued until a Letter of Final Acceptance (refer to Section 5.05(d)) has been issued by the City, and a copy of such Letter has been submitted to the Building Official by the developer, unless otherwise authorized by the City Manager.

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## SECTION 8: SUBDIVISION REQUIREMENTS

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### SECTION 8.01 GENERAL POLICIES

#### (a) **Conformance to Plans.**

- (1) Public Improvements. Proposed public improvements serving new development shall conform to and be properly related to the public facilities elements of the City's adopted Comprehensive Plan, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall at a minimum meet the service levels specified in such plans.
- (2) All Plats within the City and its ETJ, and corresponding Construction Plans, shall provide for thoroughfares as shown in the City's adopted *Comprehensive Plan*. The alignment and right-of-way width of all proposed thoroughfares shall be in general conformance with the City's *Comprehensive Plan*. Minor adjustments to thoroughfare alignments may be allowed without amending the *Comprehensive Plan* if the Director of Development Services believes the new alignment meets the spirit and intent of the *Comprehensive Plan* and will not compromise public safety or traffic efficiency. The design and construction of all proposed thoroughfares shall be in conformance with the City's *Thoroughfare and Circulation Design Requirements* and *Engineering Design Standards and Construction Details*, and shall be subject to approval by the Director of Engineering Services. Such approvals shall be required prior to any Plat approval.

Comprehensive Plan Amendment. If a significantly different roadway alignment or type (from what is shown on the *Comprehensive Plan*) is proposed, then the *Comprehensive Plan* shall be amended prior to any Plat approval. Submission of a Traffic Impact Analysis (TIA) of the proposed amendment by the developer may be required if the Director of Development Services and the Director of Engineering Services determine that such an analysis is necessary to fully assess the impact of the proposal upon the City's overall thoroughfare network.
- (3) Water and Wastewater Plans. The design and construction of the water system and wastewater system to serve the development shall be in conformance with the City's master plans for water and wastewater facilities, and with the *Engineering Design Standards and Construction Details*, and shall be subject to approval by the Director of Engineering Services prior to approval of the Construction Plans and the Final Plat.
- (4) Storm Drainage Standards. The design and construction of the storm drainage system to serve the development shall be in conformance with but not limited to the City's master plans for storm water drainage, with the City's Storm Drainage Ordinance, and with the *Engineering Design Standards and Construction Details*, and shall be subject to approval by the Director of Engineering Services prior to approval of the Construction Plans and the Final Plat.

(b) **Adequate Public Facilities.**

(1) Adequate Services for Areas Proposed for Development. Land proposed for development in the City and in the City's ETJ shall be served adequately by essential public facilities and services, including but not limited to water distribution, wastewater collection and treatment, roadways, pedestrian circulation, storm drainage conveyance, and park and recreational facilities. Land shall not be approved for platting or development until adequate public facilities necessary to serve the development exist or provisions have been made for the facilities, whether the facilities are to be located within the property being developed or offsite.

a. Street Access. A Plat will not be approved unless all of the proposed lots have safe and reliable street access for daily use and emergency purposes.

1. A Plat will not be approved unless all of the proposed lots have direct access to an improved public street (or a public street that will be improved during construction of the proposed development) to the City's minimum design and paving standards, or to an approved public way that is connected to an improved public street.
2. Except for lots which are provided access from an approved cul-de-sac, all lots within a development shall have at least two (2) means of access or approach. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the City may accept a temporary street connection provided that a second permanent access point can be reasonably anticipated with future development of adjacent properties.
3. For properties situated adjacent to an existing or planned median-divided thoroughfare, at least one (1) of the required access points shall occur at, or through access easement connection to, a median opening. (See Diagram 8.01-1)

b. Water. A Plat will not be approved unless all of the proposed lots are connected to a public water system which is capable of providing adequate water for health and emergency purposes.

1. Except for lots along an approved cul-de-sac, all lots shall be provided service connections from a looped water main providing water flow from two (2) directions or sources.
2. Water service shall be sufficient to meet the fire flow requirements of the proposed development, except where a suitable alternative means of fire protection is approved by the Fire Chief.
3. The City may require the phasing of development and/or improvements to the water system to ensure adequate fire protection.

c. Wastewater. A Plat will not be approved unless all of the proposed lots are served by an approved means of wastewater collection and treatment.

1. The projected wastewater discharge of a proposed development shall not exceed the proposed capacity of the wastewater system.

2. The City may require the phasing of development and/or improvements to the sanitary sewer system so as to maintain adequate wastewater capacity.
  - d. Storm Drainage. Increased storm water runoff attributable to new development shall not cause impacts to adjoining, upstream or downstream properties. Impacts are defined as an increase in runoff between pre and post development. Where the projected runoff from a new development exceeds runoff from pre development conditions, the City may require the phasing of development, the use of control methods such as retention or detention, obtaining off-site drainage easements, and/or the construction of off-site drainage improvements as means of mitigation.
- (2) Property Owner's Responsibilities. The property owner shall be responsible for, but not limited to, the following:
- a. Dedication and Construction of Improvements. The property owner shall dedicate all rights-of-way and easements for, and shall construct and extend, all necessary on-site and off-site public improvements for water distribution, wastewater collection and treatment, streets, storm drainage conveyance, and other improvements that are necessary to adequately serve each phase of a proposed development at service levels that are consistent with the City's applicable master facilities plans and construction design standards.
  - b. Abutting Substandard Streets. Where a substandard street abuts or traverses a proposed development, the City may require the property owner to dedicate additional right-of-way and to improve the street to the City's current design and construction standards as set forth in the *Thoroughfare and Circulation Design Requirements*, in the *Engineering Design Standards and Construction Details*, and in the *Comprehensive Plan*. Such requirements to improve the substandard street to the City's current standards shall only be imposed following careful review of factors including, but not limited to:
    1. The impact of the new development on the street;
    2. The timing of the development in relation to need for the street; and
    3. The likelihood that adjoining property will develop in a timely manner.

In the case of frontage or service roads for state or federally designated highways, the entire abutting right-of-way shall be dedicated and improved to that agency's applicable construction design standards if such improvement is approved by the agency. (Also refer to Section 8.04 of this Ordinance, and the City's Impact Fee Ordinance.)

- c. Facilities Impact Studies. The City may require that a developer prepare a comprehensive Traffic Impact Analysis (TIA), flood or drainage study or downstream assesment, or other facilities impact study(ies) in order to assist the City in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. The study(ies) shall identify, at a minimum:

1. The adequacy and capacities of existing facilities;
2. The nature and extent of any current deficiencies; and
3. The public improvements that will be needed to meet adequate levels of service assuming development at the intensity proposed in the application.

The study(ies) shall be subject to approval by the Director of Engineering Services prior to approval of the Preliminary Plat and the Construction Plans. The City also may require, at the time of approval of a subsequent application (e.g., Final Plat), an update of a facilities impact study(ies) approved in connection with a prior application (e.g., Preliminary Plat).

- d. Future Extension of Public Facilities. The property owner shall make provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation policies, if applicable;
  - e. Operations and Maintenance of the Public Facilities. The property owner shall provide for all operations and maintenance of the public facilities, or shall provide proof that a separate entity will be responsible for the operations and maintenance of the facilities;
  - f. Fiscal Security. The property owner shall provide all fiscal security required for the construction of the public facilities;
  - g. Approvals from Utility Providers. The property owner shall obtain all necessary approvals from the applicable utility providers other than the City, and shall submit written verification of such approvals to the City with the Construction Plans; and
  - h. Compliance with Utility Providers. The property owner shall comply with all requirements of the utility providers, including the City and applicable drainage districts.
- (3) Rough Proportionality; Fair Share. There is a direct correlation between the increased demand on public facilities and systems that is created by a new development, and the City's requirements to dedicate rights-of-way and easements and to construct a fair and proportional share of public improvements that are necessary to offset such impacts such that new development does not negatively affect the City as a whole. The City desires that a new development project contribute its fair and proportional share of such costs.

## **SECTION 8.02 WATER & WASTEWATER REQUIREMENTS**

### **(a) Water and Wastewater Basic Policy.**

#### **(1) Construction Requirements.**

- a. All public water and wastewater mains shall be located in the frontage of the property along streets, or in easements adjacent to the development in order to provide service to adjacent property.
- b. Public water and/or wastewater mains shall not be located within a private street, drive or access easement unless a public utility easement is provided.
- c. The minimum easement width for water or wastewater mains shall be fifteen (15) feet, or as determined by the Director of Engineering Services. Where it is necessary for water and wastewater facilities to be located within the same easement, the easement shall be a minimum of twenty (20) feet in width, or as determined by the Director of Engineering Services.
- d. No portion of a structure (including, but not limited to, walls, foundations, porches/patios and porch/patio covers, canopies, roof extensions/overhangs, chimneys, fire flues, etc.) shall encroach over or into any easement, except that wall-attached window awnings, "bay" style windows, and roof eaves shall be allowed to encroach into an easement a maximum of twenty-four inches (24") upon approval of the Director of Engineering Services.
- e. A water or wastewater easement between two lots must fall entirely on a single lot.
- f. Easements shall be dedicated for exclusive use for water and wastewater facilities and shall be shown on the Final Plat for the specific purpose intended. When it is necessary for additional utilities to be placed within an easement, additional width shall be provided and the easement shall be labeled for its intended purpose on the Final Plat.
- g. When it is necessary to relocate or replace an existing water or sewer facility to accommodate a proposed subdivision, the developer is responsible for all costs associated with the relocation, except as agreed to by City Council for oversize participation.

- (2) Construction Plans. Plans for construction of all water and wastewater facilities required by these regulations shall be prepared in accordance with the requirements and specifications contained in the *Engineering Design Standards and Construction Details*, the regulations of the Texas Commission on Environmental Quality (TCEQ), National Sanitation Foundations (NSF), Texas Department of Insurance, Insurance Services Office, and the City's current adopted Fire Code, which are incorporated by reference and made a part hereof. Plans for the improvements must be prepared by a licensed engineer and accepted by the Director of Engineering Services.

- (3) Acquisition of Easements. The developer shall be responsible for the acquisition of all required off-site easements. If the developer is unable to acquire the necessary off-site easement, the City shall be provided with easement or right-of way survey documents and exhibits, documentation, including evidence of a reasonable offer made to the affected property owner. Upon receiving a written request for assistance, the City may, at its option, acquire these easements either through negotiations or through condemnation in appropriate situations. The developer shall reimburse the City for the costs of acquiring the necessary easements including but not limited to attorney fees, expert fees and title searches.

**(b) Preliminary Utility Plan.**

- (1) Concurrent with the submission of a preliminary plat, replat or minor plat, the developer shall submit a map or plan showing the location and size of water and wastewater mains, which will be required to provide adequate service and fire protection to the lots specified in the proposed plat. Plans and specifications for fire hydrant systems shall be submitted to the Fire Marshal for review prior to construction.
- (2) Plan Document. The plan shall be prepared as noted in the City's Development Application Handbook.

**(3) Coordination with other Utility Providers**

- a. *Preliminary Plat.* When the subdivision is located in an area served by a utility provider other than the City, the developer must provide a water system analysis.
- b. *Minor Plat, Replat.* When a subdivision is located in an area served by a utility provider other than the City, the developer must provided a letter from the utility provider stating that facilities existing in the area to provide adequate domestic service and fire protection. If the City has reason to believe that there may be water supply or pressure concerns, a water system analysis may be required.
- c. *Final Plat.* The final plat will not be filed with the County until a letter has been provided from the utility provider stating that they have accepted the plans for construction.

**(c) Miscellaneous Requirements.**

- (1) No building shall be constructed over an existing wastewater, lateral or water main unless approved in writing by the Director of Engineering Services and approved by the City Council.
- (2) Ownership and maintenance of water and wastewater mains and service connections shall be regulated as follows.
  - a. The title to all wastewater lines constructed, including wastewater service connections located in a right-of-way or dedicated easement, shall be vested in the City or the applicable utility provider.
  - b. The developer, or single customer, shall be responsible for all maintenance of the wastewater service connection, unless replacement of the service is required under



the roadway or pavement. When replacement is determined to be necessary by the Director of Engineering Services, the City shall assume the responsibility for replacement of that portion under the pavement.

- c. The title to all water mains and water meters constructed, and installed, including the title to service connections, shall be vested in the City or the applicable utility provider.
- (3) The City makes no guarantee that water supply or wastewater capacity will be available at any particular time or place.
- (4) Water or wastewater service lines shall not cross any adjacent lot. The public main shall be extended so as not to require the service to extend across another lot. Water and wastewater service lines shall be maintained by the property owner.
- (5) Public water and wastewater mains adjacent to federal, state, or county roadways shall be constructed outside the right-of-way in a separate easement unless otherwise agreed by those agencies and the City.

(d) **Water.**

(1) Design & Construction.

- a. Installation of Water Facilities. Where water is to be provided through the City system, the property owner shall install adequate water facilities, including fire hydrants, in accordance with the City's *Engineering Design Standards and Construction Details*, the adopted Fire Code, the current Rules and Regulations for Public Water Systems of the Texas Commission of Environmental Quality (TCEQ), and the firefighting standards of the Texas Board of Insurance. If any such requirements conflict, the most stringent requirement shall apply.
- b. Facilities for Health and Safety Emergencies; Alternative Water Sources. All water facilities connected to the City's water system shall be capable of providing water for health and emergency purposes, including fire protection and suppression. Water supply facilities shall be in accordance with the *Engineering Design Standards and Construction Details*. The design and construction of water system improvements and alternative water sources shall also comply with the following standards:
  - 1. Design and construction of a water source on the site shall be in accordance with applicable regulations of the Texas Commission of Environmental Quality (TCEQ).
  - 2. Design and construction of water service from the City shall be in accordance with the standards in the City's *Engineering Design Standards and Construction Details*.
  - 3. Design and construction of a fire protection and suppression system shall be in accordance with the standards in the *Engineering Design Standards and Construction Details*, and in accordance with the City's Fire Department and adopted Fire Code.

(2) Location.

- a. Shown on Construction Plans. The location and design of all fire hydrants, all water supply improvements and the boundary lines of special districts, private systems and certified water service areas, indicating all improvements proposed to be served, shall be shown on the Construction Plans.
- b. Extension of Lines. Extension of water lines shall be made along the entire frontage of the development adjacent to a street. If the subdivision is not adjacent to a street, the extension of water lines shall be accomplished in such a manner as to allow convenient future connections to said lines by new subdivisions.
- c. Waiver for Requirement. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Director of Engineering Services may approve a Minor Waiver for this requirement in accordance with Section 9.01 of this Ordinance prior to action on the Construction Plans or prior to action on any Plat.

(3) Cost of Installation. The cost of installing all water supply improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees and Improvement Agreement, if applicable (refer to Section 5.04).

(4) Cost of Extension. Where the City's water distribution system is not planned to be extended in time to serve a proposed new development, all necessary water facilities to serve such development shall be provided by and at the expense of the developer.

(5) Alternative Water Systems. Developments may be approved with alternative water facilities according to the following criteria:

- a. Water well operation and quality shall meet the minimum requirements of the Texas Commission on Environmental Quality, Collin and Denton Counties, City health ordinances, and all other regulatory agencies, if applicable.
- b. Water wells may not be used for commercial sale of water.
- c. The cost to tie onto the public water system must exceed the certified initial capital cost of a well by twenty-five percent (25%). All costs and engineering designs shall be submitted by a licensed professional engineer. All costs and engineering designs shall be subject to approval by the Director of Engineering Services. If a residence is located within one thousand feet (1,000') of a domestic water supply, that residence must hook up to that service.

(6) Individual Wells.

- a. Within the City's Extraterritorial Jurisdiction (ETJ). Individual wells within the City's ETJ shall be subject to approval by the applicable County health official, and this approval shall be documented by the health official's signature on the water system statement on the Preliminary and Final Plat. The property owner must submit with the Preliminary and Final Plat applications a certificate from a professional engineer who is registered, or a geoscientist who is licensed, to practice in the State of Texas



verifying the adequacy of the proposed well water supply and potability prior to Preliminary Plat and Construction Plans approvals.

- b. Compliance with Other Regulations. Installation, operations and maintenance of individual wells shall comply with City standards, regulations of the Texas Commission on Environmental Quality (TCEQ), and any other applicable County or State rules and regulations. In the event of conflict among these regulations, whichever is the most stringent shall apply.

**(e) Wastewater.**

- (1) Extension of and Connection to the City's Wastewater Collection System. Extension of, and connection to, the City's sanitary sewer system shall be required for all new developments within the City's limits. Extension of, and connection to, the municipal sewer system shall also be required for new developments within the City's ETJ for any proposed development, lot, tract or parcel that is less than one (1) acre in size. The City is not in any way obligated to allow extension of municipal sewers outside the City's limits. The required extension of, and connection to, the municipal sewer system may be waived as a Minor Waiver, in accordance with Section 9.01, by the Director of Engineering Services if the Director of Engineering Services determines that such extension would require unreasonable expenditures and that an on-site wastewater disposal system (see Section 8.02(e)(5)) will function properly and safely.
- (2) Design & Construction. It is the policy of the City to require all wastewater collection lines to have gravity flow. The use of lift stations and force mains is prohibited unless a gravity design is impractical, as determined by the Director of Engineering Services. The location, design and sizing of all wastewater improvements shall be shown on the Construction Plans and are subject to approval by the Director of Engineering Services.
- (3) Cost of Installation. The cost of installing all wastewater improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees and Improvement Agreement, if applicable (refer to Section 5.04).
- (4) Extension.
  - a. Cost. Where the City's wastewater system is not planned to be extended in time to serve a proposed new development, all necessary wastewater facilities to serve such development shall be provided by and at the expense of the developer.
  - b. Future Extensions. Pipe stub-outs shall be located in manholes to facilitate the future extension of wastewater lines. The Director of Engineering Services will determine the location and size of the stub-outs.
- (5) On-Site Wastewater Disposal Systems.
  - a. In cases where the Director of Engineering Services determines that extension of, and connection to, the City's sewer system is impractical or not feasible, and where the Director of Engineering Services approves the use of an on-site wastewater disposal system(s), such on-site system(s) shall provide adequate sewage disposal

for all lots, tracts, parcels and structures in the development that cannot be connected to the City's sewer system.

- b. All on-site wastewater disposal systems shall be designed, permitted, constructed, operated and maintained in compliance with all applicable local, County and State regulations, and a permit for such system shall be acquired prior to Preliminary Plat and Construction Plans approvals.
- c. On-site wastewater disposal facilities requiring soil absorption systems may be prohibited where such systems will not function properly due to high ground water, flooding, unsuitable soil characteristics, or other topographical or environmental issue.
- d. Each lot, tract, parcel and structure that utilizes an on-site wastewater disposal system shall have a minimum land area of at least one (1) acre.
- e. No portion of any on-site wastewater disposal system shall be constructed within a minimum one hundred and fifty foot (150') radius around any water well either on-site or on other properties.
- f. All properties and structures that are allowed to utilize an on-site wastewater system shall, at the owner's expense or using funds escrowed by the developer (see below), tie onto the City's sanitary sewer system when such municipal system is extended to the service area as determined by the Director of Engineering Services. Such connection to the City's system shall occur within one (1) year after the system is made available to the area. The developer of any new subdivision shall provide escrow funds, the amount of which shall be subject to approval by the Director of Engineering Services, for this future connection to the City's sanitary sewer system.
- g. In order to protect the public health, safety and welfare, an existing on-site wastewater disposal system shall be upgraded, or reconstructed if necessary, to comply with the City's standards by the owner, at the owner's expense, if the operation of the facility does not comply with government regulations or if it causes objectionable odors, unsanitary conditions, pollution, etc.

**SECTION 8.03 DRAINAGE AND ENVIRONMENTAL STANDARDS****(a) Drainage and Storm Water Management Policies.**

- (1) Easements. Drainage easements shall be dedicated for public drainage features in accordance with requirements of this ordinance. Drainage easements and features shall be included as a portion of buildable (habitable structure) lot(s) and not as a lot by itself unless specifically authorized by the Director of Engineering Services. If a large development related feature is authorized on a separate lot, a home owner's association is required. Storm drainage easements shall be located along side property lines, and such easements shall be contained fully on one lot or tract, and shall not be split across the property line between two (2) lots or tracts.
- (2) Storm Water Quality. Designs for new development shall manage storm water in a manner that protects water quality by addressing the development's potential to cause erosion, pollution, siltation, and sedimentation in the MS4 and natural Major Creeks. The goal is to maintain after development, to the maximum extent practicable, the predevelopment characteristics in the Major Creek, which ultimately receives storm water runoff from the development. It is the developer's responsibility to ensure that designs for new development meet the storm water management requirements in the General Permit for Storm Water Discharges from Construction Activities issued by the TCEQ and its successor agencies. This permit includes the requirement for measures that will be installed during construction to control pollutants in storm water discharges after construction operations have been completed.
- (3) Storm Water Runoff. Storm water runoff shall be calculated anticipating a fully developed watershed. The Comprehensive Plan, existing land use, and zoning maps shall be used to determine fully developed conditions. The Director of Engineering Services reserves the right to review the determination of fully developed conditions and may require revisions.
- (4) Minimum Finish Floor Elevations. The Director of Engineering Services may require minimum finish floor elevations (MFF) to provide flood protection on certain lots contained within the subdivision. The MFFs shall be shown on the plat. These elevations shall incorporate the most current floodplain management criteria or other criteria as necessary to avoid damages. The minimum finish floor elevation shall be two feet above the fully developed 100-year water surface elevation where the MFF is associated with a natural Major Creek or open channel. When the MFF is necessitated by situations other than a natural Major Creek or open channel, the MFF shall be set by the developer's engineer and agreed upon by the City.

The following note or an amended version appropriate to the specific plat shall be added to any plat upon which the Director of Engineering Services requires the establishment of minimum finish floor elevations:

"The City reserves the right to require minimum finish floor elevations on any lot contained within this addition. The minimum elevations shown are based on the most current information available at the time the plat is filed and are subject to change."

(5) Off-site Drainage.

- a. When any proposed development requires off-site grading where storm water runoff has been collected or concentrated, it shall not be permitted to drain onto adjacent property except in existing Major Creeks, channels, storm sewers or streets unless one of the following is provided:
  1. Notarized Letter of Permission. The letter shall state that the permission shall bind the owner of the affected property and be a covenant running with the land. It shall also refer to the plans for the improvements creating the need for the permission. The letter shall be filed with the applicable County.
  2. Drainage Easement. A drainage easement shall be dedicated for Major Creeks, ditches, or drainage channels and shall be of a width sufficient to comply with the criteria outlined in the *Engineering Design Standards and Construction Details*.
- b. In the event the developer cannot obtain a notarized Letter of Permission or a drainage easement, the developer shall provide the City with documentation of all efforts, including evidence of a reasonable offer made to the affected property owner, and one of the following:
  1. Written Request for Assistance. The City may pursue acquisition of these easements through negotiations. If the negotiations are unsuccessful, the request may, at the developer's option, be submitted to City Council for consideration of acquisition through eminent domain. Any expenses, including attorney's fees, incurred by the City to acquire or attempt to acquire an easement shall be paid by the developer.
  2. Notarized Letter. With the concurrence of the Director of Engineering Services, the developer may execute a notarized letter stating the developer shall save and hold harmless the City from any and all claims or suits for damage arising from storm water runoff. The letter shall be in a form approved by the City Attorney.

(b) **Preliminary Storm Water Management Plan.**

- (1) A preliminary storm water management plan (SWMP) shall be prepared for all developments in accordance with the requirements set forth in the City's Development Application Handbook. The purpose of the SWMP is to identify permanent water quality feature opportunities for the development.
- (2) The preliminary SWMP shall be prepared in coordination with the preliminary drainage plan on all projects where both are required. The preliminary SWMP and the preliminary drainage plan may be shown on the same sheet. When a preliminary drainage plan is not required, the preliminary SWMP shall indicate the existing drainage patterns and runoff coefficients and the proposed changes to these items.
- (3) The preliminary SWMP must comply with the standards and criteria outlined in this ordinance, the *Engineering Design Standards and Construction Details*, and the Erosion Siltation Control Ordinance. The plan may satisfy the storm water management portion of the Storm Water Pollution Prevention Plan (SWPPP) that is required for construction

activities; however, the SWMP is not a substitution for the SWPPP. The City's review of the preliminary SWMP does not constitute acceptance of the final SWMP or the final development plans.

- (4) The developer shall provide a preliminary SWMP for the area proposed for development. For amended plats or plats with a previously accepted preliminary SWMP, the accepted preliminary SWMP shall be enforced unless a revised preliminary SWMP is required.
- (5) Three (3) paper copies of the preliminary SWMP plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. The plan shall be labeled as "Preliminary." Upon acceptance of the plan, the plan shall be signed, sealed, and dated by the engineer, or shall be signed and dated and contain a statement affirming the plan was prepared under the direction of the engineer signing the plan and that the plan is preliminary.

**(c) Preliminary Drainage Plan.**

- (1) This plan shall show the watershed affecting the development and how the runoff from the fully-developed watershed will be conveyed to, through, and from the development. It must comply with the standards outlined in this Ordinance and the drainage design criteria found in the *Engineering Design Standards and Construction Details*. The preliminary drainage plan is a guide for the detailed drainage design. The review of the preliminary drainage plan does not constitute final drainage plan approval or authorize a waiver to this Subdivision Ordinance.
- (2) For any property involved in the development process, a preliminary drainage plan shall be provided, at the developer's expense, for the area proposed for development. For property with a previously accepted preliminary drainage plan, the accepted preliminary drainage plan may be submitted and enforced unless a revised preliminary drainage plan is required by the City due to lot reconfiguration or other conditions created by the new plat. The Director of Engineering Services may waive the requirement for a preliminary drainage plan if the submitted plat is not anticipated to cause any significant change in runoff characteristics from a previously accepted drainage study or for single residential properties where no drainage problems are anticipated. If the applicant requests a waiver in writing, a copy of any previous drainage plan shall be provided.
- (3) Three (3) paper copies of the preliminary drainage plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. The plan shall be labeled as "Preliminary." The plan shall be signed, sealed, and dated by the engineer.

**(d) Floodplain Development Requirements.**

- (1) All development proposed adjacent to or within the 100-year floodplain shall be in accordance with the City's Flood Hazard Prevention Ordinance and this Ordinance.

**(e) Major Creeks.**

- (1) 100-Year Floodplain Restrictions. For the health, safety and welfare of the City's residents and for the conservation of water, storm drainage and sanitary sewer facilities, the City prohibits development of any portion of a property that lies within the 100-year floodplain of any Major Creek. Major Creeks shall be protected from destruction or damage resulting from clearing, grading, and dumping of earth, waste or other foreign materials. Clearing, grading, excavation

or filling of any area within the 100-year floodplain or within any Major Creek shall be prohibited unless authorized in writing by the City.

- (2) Major Creek Restrictions. All Major Creeks (See Diagram 8.03-1) shall be maintained in an open natural condition. Each Major Creek is subject to the following requirements for all types of development:
  - a. The 100-year floodplain and Erosion Hazard Setback shall be dedicated on the Final Plat to the City as a single lot or may be owned and maintained by an HOA, pursuant to Section 8.11 of this Ordinance. At no time shall any portion of the 100-year floodplain exist or be within any single-family or two-family residential lot. Erosion Hazard Setback requirements are located in the *Engineering Design Standards and Construction Details*.
  - b. The Commission may waive any of these dedication requirements for a Replat that was originally platted prior to the adoption of this requirement (i.e., the adoption date of the City's Major Creek Ordinance No. 99-09-25, which was on September 21, 1999).
- (3) Access. Access shall be dedicated for maintenance purposes as required by the Director of Engineering Services (See Diagrams 8.03-2 and 8.03-3).
- (4) Retaining Wall(s). A retaining wall(s) may be allowed between a house and the Major Creek as approved by the Director of Engineering Services.
- (5) Adjacent Street(s) Widths. The size of streets adjacent to a Major Creek shall have a minimum right-of-way width of fifty feet (50'). The City shall participate in fifty percent (50%) of the paving costs when the City determines that a collector-size street, sixty feet (60') of right-of-way width, is necessary for traffic safety, public access, and/or public on-street parking.
- (6) Adjacent Street(s) Types (see Diagram 8.03-3).
  - a. Phases. Street requirements shall be reviewed per development phase.
  - b. Parallel Streets. A minimum 60% of the linear frontage of the Major Creek shall be adjacent to a parallel street.
  - c. Cul-de-sac Streets. No more than one cul-de-sacs in a row. Cul-de-sacs shall comply with the following criteria (See Diagram 8.15-4):
    1. A minimum 50% of an adjacent cul-de-sac bulb shall be open to the Major Creek and no residential lot shall encroach within the area between this line and the Major Creek.
    2. An entry monument(s) or feature(s) as well as landscaping shall be provided at the end of the cul-de-sac and a pathway of a minimum 12 feet in width shall be provided to the Major Creek as approved by the Director of Development Services.
- (7) Setbacks. Any side lot line adjacent to a Major Creek shall provide a twenty-five foot (25') building setback (See Diagram 8.03-2).
- (8) Fences. Fences adjacent to a Major Creek shall comply with the following criteria (See Diagram 8.03-5):
  - a. Have a maximum fifty percent (50%) opacity;
  - b. Have a height of six (6) feet to eight (8) feet as measured from grade at that location;



- c. Ornamental metal fences, with either masonry columns or a masonry base of a maximum three (3) feet in height shall be located along the rear and side of the lots, are subject to City review and approval by the Director of Development Services; and
  - d. The lot owner is responsible for the maintenance of the fence.
- (9) Exceptions for Planned Development. For properties which have an approved Concept Plan that is part of a Planned Development Ordinance adopted prior to the effective date of the Major Creek Ordinance (Ordinance No. 99-09-25), Section 8.03(e)(6) shall not apply; provided, however, said properties are subject to the following conditions:
- a. Any lot that backs to the 100-year floodplain shall have a minimum rear yard setback of twenty-five feet (25');
  - b. Any lot that sides to the 100-year floodplain shall have a minimum side yard setback of fifteen feet (15').
  - c. Alternating cul-de-sacs and looped streets shall be provided at intervals not to exceed twelve-hundred feet (1,200') for access to the 100-year floodplain; and
  - d. The 100-year floodplain shall be available to public access from the end of a cul-de-sac.
- (10) Additional Studies. At the request of the City, the property owner shall submit additional studies, including but not limited to the following, as deemed appropriate and necessary by the City, as part of the Preliminary Plat submittal requirements. These studies shall be considered during review and approval of the Preliminary Plat.
- a. Wetland Delineation Study;
  - b. Habitat Study;
  - c. Vegetative Study;
  - d. Erosion Hazard Setback Study;
  - e. Storm Drainage Study;
  - f. Riparian (i.e., Tributary) Study;
  - g. Flood Study; and
  - h. Downstream Assessment Study.

## SECTION 8.04 STREET REQUIREMENTS

### (a) **Streets Basic Policy.**

(1) Street Improvements. In platting a new development, the property owner shall provide additional right-of-way needed for existing or future streets as required by the *Thoroughfare and Circulation Design Requirements* and as shown on the City's adopted *Comprehensive Plan*.

(2) Improvement of Existing Substandard Streets.

a. When a proposed residential or nonresidential development abuts one or both sides of an existing substandard street, the developer shall be required to improve the substandard street and its appurtenances (such as curbs and gutters, sidewalks, barrier-free ramps, street trees, etc.) to bring the same to City standards, or to replace it with a standard City street, at no cost to the City other than as may be provided in the City's cost-sharing policies, including the City's Impact Fee Ordinance that are in effect at the time of Final Plat approval.

b. If the proposed development is located along only one side of a substandard street, and if the City makes a determination that it is not feasible to improve the full width of said substandard street at that time the City may require the developer to pay into escrow, in accordance with Section 5.04, funds for the future improvement of the street as a condition of Final Plat approval for the development.

c. The developer may request a Major Waiver (see Section 9.01) or may file a proportionality appeal (see Section 9.02) if the requirements for improving an existing substandard street imposed by this Section 8.04(a)(2) would result in unnecessary hardship or would be disproportional to the impacts generated by the development on the City's street system.

(3) New Perimeter Streets.

a. When a proposed residential or nonresidential development is developed abutting an existing or planned major thoroughfare, minor thoroughfare or collector street (as shown on the City's adopted *Comprehensive Plan*), the developer shall construct a portion of the abutting street and its appurtenances (such as curbs and gutters, sidewalks, barrier-free ramps, street trees, etc.) to the City's design standards for that type of street (per the *Thoroughfare and Circulation Design Requirements* and the *Engineering Design Standards and Construction Details*). If the Director of Engineering Services makes a determination that it is not feasible to construct the abutting street and its appurtenances at that time, the City may require the developer to pay into escrow, in accordance with Section 5.04, funds for the future construction of the street as a condition of Final Plat approval for the development.



(4) New Internal Streets.

- a. All new streets and their appurtenances internal to a proposed residential or nonresidential development shall, at a minimum, be built to a width and design which will adequately serve that development, and shall conform to the City's design standards in the *Thoroughfare and Circulation Design Requirements* and the *Engineering Design Standards and Construction Details*. If oversizing of an internal street is deemed necessary by the Director of Engineering Services for traffic safety or efficiency (such as adjacent to a school or park site), then the City and/or the applicable Independent School District may participate in such oversizing costs as part of a Development Agreement with the developer.
- b. Streets which temporarily dead end at power lines, railroads or similar rights-of-way shall be constructed for at least one-half the distance across these rights-of-way, or provision shall be made to place the construction cost for said improvements in escrow with the City in accordance with Section 5.04.
- c. When, in the Director of Engineering Services' judgment, it is not feasible to construct an internal street or appurtenances to an internal street at the time of development of the subdivision, the City may require the developer to pay into escrow, in accordance with Section 6.05, funds for the future construction of the street or its appurtenances as a condition of Final Plat approval for the development.

- (5) Impact Fees. All fees due on the project shall be paid in accordance with the City's Impact Fee Ordinance and/or Development Agreement.

(b) **Street Design and Appurtenances.**

- (1) Application of Requirements. Street design requirements are subject to the provisions included in the *Thoroughfare and Circulation Design Requirements*, *Engineering Design Standards and Construction Details*, and Planned Development Ordinance (if applicable to the subject property) as well as the regulations contained within this Subdivision Ordinance.
- (2) Conformity to the City's Comprehensive Plan. The general location of streets shall conform to the City's *Comprehensive Plan*. For streets that are not shown on the City's *Comprehensive Plan*, such as local residential streets, the arrangement of such streets shall:
  - a. Provide for the continuation or appropriate projection of existing streets or street stubs from or into surrounding areas – refer to street stub requirements outlined in Section 8.04(b)(9) and connectivity requirements in Section 8.04(b)(10);
  - b. Conform to any plan for the neighborhood approved or adopted by the City to address a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical; and
  - c. Not conflict with existing or proposed streets or driveway openings, including those on the opposite side of an existing or planned thoroughfare, as described within the

*Thoroughfare and Circulation Design Requirements.* New streets shall align with opposite streets and driveway openings such that median openings can be shared.

- (3) Relation to Adjoining Street System. The proposed street system shall extend all existing major streets and such existing secondary and local streets as may be necessary for convenience of traffic circulation and emergency ingress and egress.
- (4) Street Widths & Rights-of-Way. Street(s) widths and related rights-of-way shall be designed in accordance with the City's:
  - a. *Comprehensive Plan*;
  - b. *Thoroughfare and Circulation Design Requirements*; and
  - c. *Planned Development Ordinance* (if applicable to the subject property).

All streets shall be paved with a permanent type of pavement in accordance with the *Engineering Design Standards and Construction Details*.

- (5) Private Streets. Private streets within the City and/or the ETJ may be allowed in accordance with the Zoning Ordinance. Private streets within the City's ETJ require Commission action and approval. Private streets shall be designed and constructed to the City's standards for public streets, in accordance with the *Engineering Design Standards and Construction Details* and the *Thoroughfare and Circulation Design Requirements*.

- (6) Street Names, Street Name Signs, and Traffic Control Signs.
  - a. Street Names. New streets shall be named so as to provide name continuity with existing streets, and so as to prevent conflict or "sound-alike" confusion with similar street names. All street names shall be approved by the Director of Development Services prior to any Plat approval, and prior to approval of the Construction Plans.
  - b. Cost of Signs. The cost of street name signs and traffic control signs shall be paid for, and the signs shall be installed, by the developer.
  - c. City Standards. All street name signs and traffic control signs shall conform to the City's details for street name sign design and the latest edition of the Texas "Manual of Uniform Traffic Control Devices".

- (7) Traffic Studies. The Director of Engineering Services may require a Traffic Impact Analysis (TIA) or other type of engineering study from the developer prior to any approval for plats or construction plans for technical data pertaining to the potential traffic impact of the proposed development on the City's street system.

- (8) Street Lengths.
  - a. See the *Thoroughfare and Circulation Design Requirements* for street length design requirements.
  - b. A Preliminary Plat or Final Plat approved prior to the effective date of this Subdivision Ordinance shall be exempted from the street length requirement. However, the City may consider, and shall be authorized to enforce, application of

these requirements if major changes to the approved Preliminary Plat or Final Plat are sought by the applicant. Major changes include, but are not limited to:

1. Rerouting of streets; or
2. Increasing the lot count by five percent (5%) or more from the previously approved Preliminary Plat or Final Plat.

(9) Stub Streets.

- a. See the *Thoroughfare and Circulation Design Requirements* for the design requirements.
- b. Connections are required to adjacent vacant properties at locations as approved by the Director of Development Services.
- c. A note shall be clearly placed on the Final Plat indicating that the stub street is intended to be extended with future development (see requirements for temporary turn-arounds in the *Thoroughfare and Circulation Design Requirements*).
- d. All stub streets shall have a sign prominently posted at the terminus of the street to indicate that the street will be extended in the future.
  1. The sign shall comply with standards established by the Director of Engineering Services,
  2. Installation and cost of the sign shall be the responsibility of the developer.

(10) Street Connectivity.

- a. New developments shall provide street connections to adjacent developments, as determined by the Director of Development Services, allowing access between developments for neighborhood traffic and to enhance pedestrian and bicycle connectivity as recommended in the City's Comprehensive Plan.
- b. The use of cul-de-sac streets shall be limited within new developments to the greatest extent possible. The Fire Chief and the Director of Development Services shall have the authority to determine whether or not the use of cul-de-sacs in a development meets the intent of this Section during City review and consideration of the Preliminary Plat.

- (11) Street Lighting. Street lighting shall be provided along all streets and thoroughfares in accordance with the *Thoroughfare and Circulation Design Requirements* and the *Engineering Design Standards and Construction Details*. The Director of Engineering Services shall be the responsible official for decisions related to street lighting, and may authorize a Minor Waiver, in accordance with Section 9.01, for a street lighting requirement if such Waiver will not compromise public health, safety, security and convenience.

## SECTION 8.05 ALLEYS

- (a) **Alleys Required.** Alleys shall be provided to serve all single-family and two-family residential lots. Alleys shall be constructed according to design criteria in the *Thoroughfare and Circulation Design Requirements* and the *Engineering Design Standards and Construction Details*. The Director of Engineering Services and Director of Development Services may authorize a Minor Waiver, in accordance with Section 9.01, to the requirement for alleys if all of the following conditions are met:
- (1) Sufficient on-street parking is provided;
  - (2) No lot-to-lot surface storm drainage will occur within the development;
  - (3) The subdivision design allows for an efficient solid waste collection pattern;
  - (4) Adequate area is dedicated for storm drainage facilities and utilities; and
  - (5) Adequate on- and off-street parking is provided within the development.
- (b) **Dead End Alleys.** Permanent dead end and “hammerhead” alleys are prohibited. All alleys shall have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead end alley situation is unavoidable (such as due to project phasing), a temporary turn-around bulb or turnout onto a street, either of which will require a temporary alley easement, shall be acquired and shown on the Preliminary and Final Plats. Alleys in new subdivisions shall connect to and/or be aligned with alleys in adjacent subdivisions.

## SECTION 8.06 THOROUGHFARE SCREENING

- (a) **Required Screening.** Screening is required for all single-family detached, two-family, and townhome lots and subdivisions as follows:
- (1) Back of Lots. The rear of all lots that back to a Type D or higher class Thoroughfare;
  - (2) Side of Lots. The side of all lots that side to a Type D or higher class Thoroughfare, unless a lot sides to a median-divided entry street into a subdivision; and
  - (3) Between Streets/Alleys. Between any street and an adjoining parallel alley or street.
- (b) **Screening Plan.**
- (1) Preliminary Screening Plan. A Preliminary Screening Plan shall be submitted for review and approval with the Preliminary Plat.
  - (2) Final Screening Plan. A Final Screening Plan, including entry features and showing all elevations and materials, shall be submitted with the Construction Plans. The Screening Plan shall be reviewed and considered for approval by the Director of Development Services prior to approval of the Construction Plans, and prior to scheduling a Pre-Construction Meeting (refer to Section 5.02).

- (3) City Design Standards. Screening walls and fences shall be designed in accordance with the City's design standards. Structural elements shall be sealed by a licensed professional engineer and approved by the City.
- (4) Timing of Installation and Inspection. Upon installation of the required screening, the developer shall contact the City's Landscape Architect and the Director of Engineering Services to request final inspections of screening elements. All required screening shall be installed prior to City issuance of a Letter of Final Acceptance (see Section 5.05) and Certificates of Occupancy for homes, excluding model homes which may be released early.
- (5) Surety Provided for Delay. The developer may delay the installation of screening by providing surety to guarantee the installation of required screening. Such surety shall be in an amount and format that is approved by the Director of Development Services and by the Director of Engineering Services. Required screening shall be installed within six (6) months following the date of issuance of the Letter of Final Acceptance (refer to Section 5.05).

**(c) Landscape Plan.**

- (1) Landscape Plan. A Landscape Plan for landscaping that will be installed for the development, including landscaping for common and amenity areas, entryways and thoroughfare screening, shall be submitted with the Construction Plans and shall be approved by the Director of Development Services prior to approval of the Construction Plans and prior to scheduling a Pre-Construction Meeting (refer to Section 5.02).
- (2) Standards. Landscape materials and installation shall be in accordance with Landscape Requirements in the Zoning Ordinance.
- (3) Timing of Installation and Inspection. Upon installation of all landscaping, including that required for thoroughfare screening, the developer shall request a final inspection of landscaping elements by the Director of Development Services. All required landscaping shall be installed prior to the City's issuance of a Letter of Final Acceptance (see Section 5.05) and Certificates of Occupancy for homes, excluding model homes which may be released early.
- (4) Surety Provided for Delay. The developer may delay the installation of landscaping by providing surety to guarantee the installation of required landscaping. Such surety shall be in an amount and format that is approved by the Director of Development Services and by the Director of Engineering Services. Required landscaping shall be installed within six (6) months following the date of issuance of the Letter of Final Acceptance (refer to Section 5.05).

**(d) Screening & Landscaping Options.** Screening required by Section 8.06(a) shall be installed by the developer in accordance with the approved Screening and Landscaping Plan(s), as applicable. The design of such screening shall conform with one of the options shown in Table 8.06-1 and Diagrams 8.06-1, 8.06-2(a), 8.06-2(b), 8.06-2(c), 8.06-3, 8.06-4(a) and 8.06-4(b).

- (1) Landscape Edge. All landscape edges provided for required screening shall be located within a private "non-buildable" lot (shown on the Preliminary and Final Plats) that is

dedicated to, owned by, and maintained by the subdivision's Homeowners' Association (HOA). Required landscape edges shall be exclusive of all required street and right-turn rights-of-way, drainage easements, and utility easements.

(2) Screening Walls & Fences. All required screening walls and fences shall be:

- a. Located entirely within the required landscape edge (except for at cul-de-sac bulbs, Option 4, where the required ornamental fence shall be located entirely upon the cul-de-sac lots abutting the adjacent street);
- b. Subject to the approval of the Director of Development Services;
- c. Of the minimum (and maximum) heights as shown in Table 8.06-1;
- d. Maintained by the HOA (or by the private lot owners if the HOA is dissolved in the future);
- e. The minimum height of required walls and fences shall be measured from the nearest alley edge, rear lot property line (where no alley exists), or street-side sidewalk grade, whichever is higher. The maximum height of columns, including capstones, shall be nine feet (9');
- f. Any area between alley paving and a screening wall or fence shall be paved with concrete unless otherwise approved by the Director of Engineering Services; and
- g. A minimum five-foot (5') wide wall maintenance easement, dedicated to the HOA, shall be provided on all lots abutting the required screening along the full length of the required screening wall or fence, unless separated by an alley. Such easement shall be shown on the Preliminary and Final Plats.

(3) Trees and Shrub Screens. All required screening trees and shrubs shall be planted within the landscape edge (except for as provided for cul-de-sac bulbs, Option 4). All trees and other landscape materials required for screening shall be of evergreen drought-tolerant species selected from the City's Approved Plant List in the Zoning Ordinance, and shall be subject to approval by the Director of Development Services. Minimum tree size shall be at least three caliper inches (3"), and a single species of tree shall not exceed forty-five percent (45%) of the plantings for all screening options. All trees shall be planted a minimum of four feet (4') from easements, curbs, utility lines, screening walls, fences, sidewalks and alleys, as determined by the Director of Development Services.

- a. Solid Shrub Screens. For solid shrub screens, evergreen shrubs from the City's Approved Plant List (in the Zoning Ordinance) shall be used that are low-maintenance, drought-tolerant, and insect- and disease-resistant. Shrubs shall be spaced such that they will provide a solid minimum six-foot (6') tall screen upon planting.

(4) Cul-De-Sac Bulbs. For all cul-de-sac bulbs that abut, or "open", onto an adjacent street (Option 4), the following additional screening standards shall apply:

- a. All required trees and other landscape materials shall be located within the side yards of the cul-de-sac lots abutting the adjacent street unless a landscape edge, dedicated to and maintained by the HOA, is provided.



- b. Trees required for screening do not count toward the number of trees required for residential lots in the Zoning Ordinance.
  - c. A minimum ten foot (10') separation, or the required landscape edge width, whichever is greater, shall be provided between the right-of-way for the cul-de-sac and the right-of-way for the adjacent street. A sidewalk shall be provided to connect the sidewalk along the adjacent street to the sidewalk along the cul-de-sac within a twenty foot (20') pedestrian access easement.
- (5) **Berms.** Berms may be used in conjunction with any screening option, subject to approval by the Director of Engineering Services and Director of Development Services. Berms shall be placed within the landscape edge on private property (i.e., not within public right-of-way), shall not exceed a three-to-one (3:1) slope, and shall be designed such that they do not hinder maintenance, storm drainage, accessibility or visibility. Topographic information for berms shall be shown on the Landscape Plan and on the Grading and Drainage Plans for the development.

**(e) Wall Elevations & Living Screens.**

- (1) If the top-of-wall elevation for a required screening wall is less than six feet (6'), as measured in accordance with Section 8.06(d)(2)e, a solid, irrigated living screen shall be used in combination with the screening wall to provide the necessary screening at the appropriate height from grade.
  - (2) An irrigated living screen consisting of large trees and additional large evergreen shrubs that are appropriate for screening purposes (selected from the City's Approved Plant List in the Zoning Ordinance) shall be planted within the landscape edge where the height deficiency occurs.
  - (3) The species, sizes, spacing and arrangement of all trees and shrubs that are required for screening shall be subject to the discretion and approval of the City's Landscape Architect and the Director of Development Services. All plant materials used for living screens shall be insect- and disease-resistant, and shall be plant species that are well freeze-hardy, low maintenance, well-adapted to the north central Texas area, and drought-tolerant such that they are self-sustaining with minimal irrigation and care.
  - (4) When an irrigated living screen is utilized, the Landscape Plan (Section 8.06(c)) shall demonstrate adequate visual screening at the heights required and within required time frames, and such living screen shall be subject to the approval of the Director of Development Services.
  - (5) Tree and living screen requirements on sites with topography changes are subject to the approval of the City's Landscape Architect and the Director of Development Services.
- (f) **Irrigation Requirements.** An automatic, underground irrigation system shall provide one hundred percent (100%) coverage for all living screens and plantings, and shall conform with the following:
- (1) **Line Placement.** Irrigation lines shall be placed a minimum of two and one-half (2½) feet from the sidewalk. Reduction of this requirement is subject to review and approval by the Director of Development Services. The main irrigation lines, section lines and zone valves for irrigation systems shall be placed outside of required right-of-way corner clips.

- (2) Type of Irrigation. Trees and shrubs shall be irrigated by deep-watering bubbler irrigation lines only on a separate line or zone (for targeted irrigation during periods of drought). Other landscaping may be irrigated per the irrigation standards in the Zoning Ordinance. Separate valves shall be provided to turn off all or some irrigation lines/zones during periods of drought, water conservation or freezing weather temperatures.
- (3) Detectors. Evapotranspiration (ET) controllers are required on all irrigation systems.
- (4) Water Meter. The developer is responsible for installing irrigation water meter(s). The Director of Engineering Services shall approve all water meter sizes and placement. All water meters shall be easily accessible from the street.
- (g) **HOA Responsibilities.** All developments that have thoroughfare screening, entry features or common amenity areas shall be required to have a mandatory HOA to own and maintain such features (see Section 8.11). If an HOA fails to maintain any required screening device, the Director of Public Works and/or the Director of Development Services, at their discretion, shall have the authority to cause the removal and/or replacement of such required screening at the expense of the HOA.

#### SECTION 8.07 SIDEWALKS

- (a) Sidewalks (and any necessary sidewalk easements on private property) shall be provided according to the standards in the *Thoroughfare and Circulation Design Requirements*.

#### SECTION 8.08 DRIVEWAYS, FIRE LANES AND ACCESS EASEMENTS

- (a) **Standard Requirements.** All driveway approaches, curbs, gutters, pavements and appurtenances necessary to provide access to properties shall be provided by the developer, shall be designed, constructed and maintained in accordance with standards in the City's *Thoroughfare and Circulation Design Requirements, Engineering Design Standards and Construction Details*, Zoning Ordinance, and Planned Development Ordinance (if applicable to the subject property), and shall be subject to approval by the Director of Engineering Services.
- (b) **Fire Lanes.** Fire lanes are to be designed in accordance with the City's adopted Fire Code. Fire lane easements shall be shown on the Preliminary Site Plan (see Zoning Ordinance) and on the Final Plat, and shall be maintained to the City's standards by the property owner. For safety and emergency accessibility reasons during construction, developments other than single-family detached or two-family residential subdivisions shall not be allowed to proceed with vertical structural construction above the foundation prior to completion and City inspection of all fire lanes and fire hydrants on the site unless otherwise approved by the Fire Chief.
- (c) **Access Easements.** Access easements shall be provided as directed by the Director of Engineering Services and Director of Development Services.



**SECTION 8.09 EASEMENTS, LOT & BLOCK DESIGN, MONUMENTS, SUBDIVISION NAMES,  
FRANCHISE UTILITIES**

**(a) Easements.**

- (1) The type, size and location of easements shall be determined by the Director of Engineering Services. All existing and proposed easements shall be shown on the Preliminary and Final Plats. All easements shall be labeled on the Final Plat and dedicated for the specific purpose intended (e.g., "City Utility Easement", "City Drainage Easement", "CoServ Electric Easement", etc.).
- (2) Off-site easements that are necessary to fulfill City requirements or are required by the City shall be dedicated to the City by separate instrument (unless the abutting property is platted) and shall be approved by the Director of Engineering Services. If the abutting property is platted, then a Replat of that property shall be required to establish the off-site easement.

**(b) Zoning Compliance.** All lots shall conform with the zoning district requirements, unless located in the ETJ in which they shall comply with the agreements between the City and the Counties.

**(c) Residential Lots Adjacent to Drainage Areas.** Lots shall be exclusive of any portion of a natural drainage area (i.e., Major Creek, stream, tributary, etc.), maintenance access, and/or erosion hazard setback (see Major Creek Ordinance). Retaining walls may be allowed on lots adjacent to natural drainage areas as approved by the Director of Engineering Services.

**(d) Lot Shape.** The City reserves the right to disapprove any lot which, in its opinion, will not be suitable or desirable for the purpose intended, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties and/or create an irregular building envelope. The following requirements shall also apply.

- (1) Lots shall be generally rectangular in shape. Sharp angles between lot lines shall be avoided. Flag lots are prohibited (See Diagram 8.09-1).
- (2) Irregularly shaped lots shall have sufficient width at the building line to meet minimum lot width and frontage requirements for the appropriate zoning district (if applicable), and shall provide the minimum building pad required by zoning without encroachment into front, side or rear yard setbacks or into any type of easement (See Diagram 8.09-2).

**(e) Lot Lines, Buildability.**

- (1) Side Lot Lines. Side lot lines shall be at ninety degree (90°) angles or radial to street right-of-way lines to the greatest extent possible (See Diagrams 8.09-3 and 8.09-4). The Director of Development Services may grant a Minor Waiver, in accordance with Section 9.01, if unusual circumstances exist on the subject property or on adjacent property that make it difficult to comply with this requirement.
- (2) Lot Lines and Jurisdictional Boundaries. All lot lines shall, to the greatest extent possible, align along county, school district, and other jurisdictional boundary lines such that lots are

fully within one county, school district, or other jurisdiction. The Director of Development Services may grant a Minor Waiver, in accordance with Section 9.01, to this requirement if a county, school district or other jurisdictional boundary line will bisect a lot, provided that the entire residential dwelling or main structure is constructed entirely within one county, school district or other jurisdiction (i.e., the structure does not “straddle” school district or jurisdictional boundary line).

- (3) Lot Buildability. Any portion of a lot that is non-buildable for any reason shall be clearly shown as such on the Preliminary and Final Plats. A “Lot Buildability” detail shall be submitted along with the Preliminary and Final Plats, and shall verify that the buildable portion of such a lot can accommodate a dwelling or main structure that complies with applicable City zoning regulations (if located within the City’s limits) and building codes.

**(f) Lot Orientation Restrictions.**

- (1) Type A and Type B Thoroughfares. No single-family, two-family, or townhome lot(s) shall front onto or have a driveway onto Type A and Type B thoroughfares, as described within the *Thoroughfare and Circulation Design Requirements*.
- (2) Type E, F or G Thoroughfares. Lots are prohibited from backing to Type E, F or G thoroughfares, as described within the *Thoroughfare and Circulation Design Requirements*.

**(g) Lot Frontages.**

**(1) Street Frontage.**

- a. Adequate Frontage. Each lot shall have adequate access to a street (or an approved public way) by having frontage on such a street that is not less than forty feet (40’) at the street right-of-way line (See Diagram 8.09-3), or as otherwise specified in the Zoning Ordinance or a Planned Development (PD) Ordinance, if applicable. Lots fronting onto an eyebrow or bulb portion of a cul-de-sac shall also have a minimum frontage of forty feet (40’) at the street right-of-way line (See Diagram 8.09-4).
- b. Frontage Exception. For non-residential developments ten (10) acres or greater, the lots may be platted to a public way instead of a dedicated street upon approval by the Director of Development Services

**(2) Double Frontage.**

- a. Single-Family, Two-Family and Townhome Lot(s). Double frontage lots are prohibited, except that single-family, two-family or townhome lots may back or side onto a Type D or larger thoroughfare, as described within the *Thoroughfare and Circulation Design Requirements*, with appropriate screening (see Section 8.06). Where lots back or side onto a Type D or larger thoroughfare, no driveway access is allowed onto the thoroughfare from the rear or side of the lot.
  - b. Multi-Family and Non-Residential Lots. Where lots have frontage on more than one street, a front building line shall be established for each street.
- (3) Lots Facing Other Lots. Whenever feasible, each residential lot shall face the front of a similar lot, or shall face a park or open space if one exists or is planned (see Section 8.09(h)), across the street. In general, an arrangement placing adjacent lots at right angles

to each other should be avoided. The Director of Development Services may grant a Minor Waiver, in accordance with Section 9.01, if unusual circumstances exist on the subject property or on adjacent property that make it difficult to comply with this requirement.

- (h) **Lots in Relation to Parks/Open Space.** All lots that are located directly across a street from a park/open space shall face onto the park/open space. Also refer to Section 8.12(b) of this Ordinance.
- (i) **Large Lots and Tracts.** If the lots or tracts of land in a proposed development are large enough to suggest possible further subdivision in the future, or if portions of the property are not subdivided or developed immediately, then the Preliminary Plat shall show how such large tracts or remainder portions of the property can be subdivided into conforming lots at a later time, and shall also show how streets can be extended and how median openings can be aligned and shared in the future.
- (j) **Lot & Block Numbering.** All lots within each phase of a development are to be numbered consecutively within each block. Each block shall have an alpha or numeric, designation (e.g., "Block A", "Block 6", etc.).
- (k) **Building Lines.** Building lines along all streets shall be shown on the Preliminary and Final Plats on lots and shall conform with the minimum setbacks for front, side and rear yards as required by the Zoning Ordinance (if within the City's limits) on the basis of the respective districts (i.e., single-family, two-family/duplex, multi-family, commercial, retail office, mobile home, industrial, etc.).
- (l) **Block Requirements.** See the *Thoroughfare and Circulation Design Requirements*.
- (m) **Monuments.**
  - (1) General Placement. Monuments consisting of minimum three-eighths inch (3/8") diameter steel rods, at least twenty-four inches (24") long, shall be placed at all:
    - a. Lot and block corners (wherever a lot line bearing changes);
    - b. Intersection points of alley and block lines; and
    - c. Curve and tangent points along block, lot and right-of-way lines within the subdivision.
  - (2) Subdivision Monumentation. At least two (2) property corners shall be marked with monuments of three dimensional coordinates established from the City's Monumentation System and using the City's Combined Scale Factor, as necessary. The corners so marked should be at opposing ends of the property unless otherwise approved by the Director of Engineering Services.
- (n) **Subdivision Names.** New subdivisions shall be named so as to prevent conflict or "sound-alike" confusion with the names of other subdivisions. Subdivisions with similar names (e.g., Stonebriar Park Estates and Stonebriar Highlands) shall be located in proximity to each other, not in different areas of the City. A Minor Waiver, in accordance with Section 9.01, may be approved by the Director of Development Services upon a finding that the proposed subdivision name will not cause confusion, especially for emergency responders.

(o) **Franchise Utility Policy.**

- (1) General Requirements. The Director of Engineering Services may require easements for poles, wires, conduits, gas, telephone, cable TV or other utility lines if necessary or advisable in the opinion of the Director of Engineering Services.
- (2) Locations. Utility easements may be located as follows.
  - a. Utilities shall be located in the alley rights-of-way along the rear property lines of lots or tracts whenever an alley is provided.
  - b. Utilities shall be located in easements provided adjacent to the street rights-of-way along the front of lots or tracts whenever an alley is not provided.
- (3) Ground-Mounted Equipment. Ground-mounted equipment shall not be placed in visibility, access or maintenance easements.
  - a. All ground-mounted equipment in the right-of-way shall be screened from the adjacent street by minimum five (5) gallon evergreen shrubs, or larger, on three-foot (3') centers.
  - b. Planting materials selected shall be materials that can be expected to grow to the height of the equipment height within two (2) growing seasons from the date planted. The planting material must be selected from the list of materials set forth in the City's Zoning Ordinance.
  - c. The proposed planting shall be included on the Landscape Plan as required in Section 8.06(c) of this Ordinance.

**SECTION 8.10 SUBDIVISION AMENITIES**

- (a) **Description & Definition.** The term "amenity" is described within Section 8.11(c)(1) and defined within Section 10.02 of this Ordinance.
- (b) **Requirements.** Where amenities are proposed in conjunction with a development, such amenities shall be reviewed and approved in accordance with the following:
  - (1) Preliminary plans and illustrations, along with a written statement of such concepts, shall be submitted for review and approval with the Preliminary Plat.
  - (2) Plans for amenities shall then be incorporated into the Screening Plan and/or Landscape Plan (refer to Sections 8.06(b) and 8.06(c) of this Ordinance, respectively), as appropriate, for submittal as part of the Construction Plans (see Section 5.01 of this Ordinance).
  - (3) Structural elements shall be sealed by a licensed professional engineer and shall be considered for approval by the City.
  - (4) A Site Plan, reviewed and approved in accordance with the Zoning Ordinance, is required for private recreational facilities and parks;
  - (5) City review and approval of plans for amenities shall be required prior to issuance of a Letter of Final Acceptance for the subdivision improvements (refer to Section 5.05).

(c) **Design of Amenities.** The design of amenities shall conform to the following:

- (1) Entry features shall be constructed entirely on privately owned property (i.e., not within public right-of-way), and shall not suspend over a public right-of-way, unless otherwise approved by the Director of Public Works and the Fire Chief. Minor elements of an entry feature may be placed within an entry street median upon Commission approval, provided that such street median is platted as a non-buildable lot and dedicated to a mandatory HOA for private ownership and maintenance. An entry feature having a water pond, fountain or other water feature shall only be allowed if approved by the Director of Engineering Services and the Fire Chief.
- (2) No entry feature, other than screening walls or extensions of screening walls, may be constructed on any portion of a single-family, two-family, or townhome lot(s). All such features shall be constructed on lots that are platted as "non-buildable" lots and dedicated to a mandatory HOA for private ownership and maintenance.
- (3) Entry features shall not encroach into visibility easements or otherwise impair pedestrian or vehicular visibility.
- (4) The maximum height for entry features and structures shall be the maximum height of the governing zoning district, if applicable, as measured from the nearest street or sidewalk grade, whichever is higher.
- (5) Private recreation facilities, if provided in a development, shall, to the greatest extent possible, be centrally located within the overall development. (See Diagram 8.10-1)

#### SECTION 8.11 HOMEOWNERS' ASSOCIATION (HOA) REQUIREMENTS

- (a) **Purpose.** The purpose for the establishment of an HOA (also referred to as "Association") for residential developments is to create an organization that owns and is responsible for maintaining, among other things, commonly owned properties, amenities, rights-of-way and riparian areas for the communal good of the development's property owners and residents.
- (b) **Applicability.** An HOA shall be established for any development that contains any of the following: an amenity, private street(s), a Major Creek or tributary, or thoroughfare screening. For purposes of this section, the terms "Homeowners' Association" and "Association" are interchangeable with the term "Property Owners' Association" for multi-family and non-residential developments.
- (c) **Descriptions of Elements Requiring a HOA.** Any one (1) or more of the following elements created as part of a development shall require formation and continued operation of a mandatory HOA:
  - (1) Amenity. Where proposed in conjunction with a development, the word "amenity" shall be as defined in Section 10.02, and shall include, but not be limited to, the following:
    - a. Amenity center (i.e., private swimming pool, club house, tennis courts, etc.);
    - b. Private recreational facility;
    - c. Entry features;
    - d. Open space - voluntary or as required by zoning or Development Agreement;

- e. Ponds;
  - f. Water fountains;
  - g. Water features;
  - h. Hike-and-bike trails; and
  - i. Other commonly owned facilities.
- (2) Major Creek. As defined in Section 10.02, and as generally regulated by Section 8.03 of this Ordinance.
- (3) Private Street. As defined in Section 10.02, and as generally regulated by Section 8.04(b)(5) of this Ordinance; this shall include all infrastructure including streets, alleys, sidewalks and other appurtenances within designated access easements, as well as associated structures as follows:
- a. Security station structures and equipment (including gates, access card readers, perimeter security fencing, etc.);
  - b. Greenbelts; and
  - c. Other infrastructure necessary for vehicular circulation and neighborhood security.
- (4) Thoroughfare Screening. As defined in Section 10.02, and as generally regulated by Section 8.06 of this Ordinance.
- (d) **Procedure**. The establishment of a required HOA shall occur in conjunction with the recordation of the subdivision Final Plat, and shall generally be established as follows:
- (1) Documents Submitted for Review. The Declaration, covenants and other necessary documents establishing the HOA shall be submitted to the City for review by the City Attorney for conformance with this and other applicable ordinances prior to submission of the Final Plat, and prior to issuance of a Letter of Final Acceptance for the development (refer to Section 5.05). HOA documents shall include descriptions of any amenities, private streets, stub streets, thoroughfare screening, Major Creek(s) or tributary(ies), and other areas for which the Association is responsible for maintenance, and shall outline the organization of the Association.
  - (2) Approval By City Attorney. All HOA documents shall be reviewed by the City Attorney prior to recordation of the Final Plat. The applicant shall reimburse the City for all related legal costs for review of the HOA documents. This reimbursement shall be paid in full prior to recordation of the Final Plat.
  - (3) Recordation. All HOA documents shall be recorded at the County prior to or concurrently with the recordation of the Final Plat. Two (2) copies of the recorded documents shall be submitted to Development Services for distribution to the Planning Division for City records within five (5) days following recordation.
  - (4) Additional Phases. An additional phase to an existing subdivision is not required to establish a separate and distinct HOA, provided that:
    - a. The existing, recorded Association documents are amended to incorporate the area of the new subdivision phase and to adopt the responsibility of its amenities, private



streets, Major Creeks and tributaries, thoroughfare screening, and other areas for which the Association is responsible for maintenance.

- b. The applicant shall provide a draft of the amended covenants to the City Attorney for review prior to the recordation of the plat.
- (e) **Notice to Purchasers.** The developer shall be required to post notice in a prominent place at all model homes and sales offices stating that a HOA has been established and that membership is mandatory for all lot owners. The notice shall also state that the developer is required to provide to any person, upon their request, a complete copy of the Association documents and a five (5)-year projection (at a minimum), of Association dues, income and expenses.
- (f) **General Requirements.** The following shall be set forth in the HOA documents:
  - (1) A statement that membership in the Association is mandatory for all owners of property within the subdivision;
  - (2) A listing of all required maintenance responsibilities, and where possible, the lot number(s), legal descriptions, street name(s), etc. as shown on the approved plat for areas to be the responsibility of the Association;
  - (3) By-laws related to the governance of the Association;
  - (4) Covenants for maintenance assessments, which shall run with the land;
  - (5) Responsibility for liability insurance and local taxes;
  - (6) Statement that the authority for enforcement of Association rules and regulations is solely the responsibility of the Association and is not, in any way, the responsibility of the City;
  - (7) Authority for the Association to secure funds from its members sufficient to meet its responsibilities. This authority shall include the ability to collect dues, to increase dues, to charge special assessments, and to place liens against property for failing to pay dues and assessments.
    - a. Dues shall be calculated based on a cost projection for the maintenance of all amenities and based on eventual build-out of the subdivision;
    - b. Dues shall not be based on calculations which include monies from the developer which will not be provided following the transfer of the Association from the developer to the lot owners.
    - c. Dues shall be required to be disclosed to all lot owners at the time of property purchase by the lot owners.
  - (8) Provision that no amendment of the Association documents relating to maintenance of amenities, private streets, Major Creeks and tributaries, thoroughfare screening, any other Association-maintained area or facility, or related reserve funds (as applicable) shall occur without prior City approval;
  - (9) Written release of liability for maintenance to benefit the City; written indemnification of the City outlining that under no circumstances shall the City be liable to the Association or any property owner or their respective heirs, executors, administrators, devisees, personal representatives, successors or assigns for any damages, injuries (including death), and/or

liability resulting from any amenity, on the private streets, within or adjacent to any Major Creek or tributary, associated with any thoroughfare screening or common landscaping, or from any other Association-owned and maintained area or facility;

- (10) Written assurance of funds based on an accredited cost projection analysis within a specific reserve account of the Association for the maintenance and removal of amenities as determined by the City; and
- (11) Written consent giving the City the authority to take the actions for violations as set forth in Section 8.11(h).
- (12) Other City requirements as applicable.

(g) **Supplementary Requirements.** The HOA shall also comply with the following regulations, where applicable:

- (1) Association documents shall not overrule the landscaping or other provisions of the Zoning Ordinance by penalizing or restricting water conserving landscapes, or by requiring landscape materials that do not comply with Zoning Ordinance landscape requirements;
- (2) Amenities. The following regulations shall apply to any subdivision that includes an amenity, as described in Section 8.11(c)(1) (and defined in Section 10.02):

- a. Where amenities are proposed in conjunction with a development, the applicant shall comply with those regulations outlined in Section 8.10 of this Ordinance.
- b. All developments that require the provision of common open space shall submit covenants to maintain open space, recreational areas, and other commonly owned facilities for review with the Final Plat application.

- (3) Private Streets. Whenever a public street becomes private following recordation, an HOA is required to be established, if not already in existence, that would be responsible for owning and maintaining the converted streets and rights-of-way. The following regulations shall apply to any subdivision that includes private streets, except those that exist as of the effective date of this Ordinance.

- a. The Association shall own and be responsible for the maintenance of private streets and appurtenances (such as alleys, storm sewers, sidewalks, barrier-free ramps, street lights and signs, etc.) and shall provide for the payment of dues and assessments required to maintain the private streets and appurtenances.
- b. The Association documents shall state that if the specific approval or the Specific Use Permit for the Private Street Development is revoked or the private streets are otherwise converted to public streets, the reserve fund shall become the property of the City (see the City's *Thoroughfare and Circulation Design Requirements*, for conversion process).
- c. In addition to any other requirements set forth in this Section, the HOA's documents shall specify the following:
  - 1. That the streets within the development are private, that they are owned and maintained by the Association, and that the City has no obligation to maintain, repair or reconstruct the private streets.



2. A statement that the City may, but is not obligated to, inspect private streets and require repairs necessary to insure that the same are maintained to City standards.
  3. A statement that the Association may not be dissolved without the prior written consent of the City Council, which consent shall not be withheld by the City if it determines that an adequate reserve fund exists, and the streets and alleys are in satisfactory condition as determined by the Director of Public Works.
  4. That failure to bring the subdivision into compliance with the regulations may cause the City to revoke the specific approval or the Specific Use Permit for the Private Street Development and take appropriate action.
- d. The HOA's documents shall note that certain City services may not be provided in Private Street Developments. The services that may not be provided include, but are not limited to: police enforcement of traffic and parking ordinances and preparation of accident reports. Depending on the characteristics of the proposed development other services may not be provided.
  - e. The HOA's documents shall contain a provision that requires the Association to provide unrestricted access to emergency vehicles, utility personnel, the U.S. Postal Service, and governmental employees, agents or representatives in the performance of their official duties. All access gates shall be designed and constructed in accordance with emergency access design standards in the *Thoroughfare and Circulation Design Requirements*, and shall be equipped with an Opticom gate opening system or with another opening system that is acceptable to the Fire Chief.
- (4) Major Creeks, Tributaries, Ponds and Water Features (100-Year Floodplain). For single-family and two-family residential developments, the 100-year floodplain may be owned and maintained by a Homeowners' Association subject to City approval. The Final Plat shall reflect, and the Association's documents shall provide:
- a. City access for emergency vehicles, equipment and personnel and for the improvement and maintenance of the 100-year floodplain in the event they are not being properly maintained, as determined by the Director of Engineering Services; and
  - b. That the Association shall reimburse the City for all costs incurred by the City for maintenance.
- (5) Thoroughfare Screening. All subdivisions that are required to provide thoroughfare screening per Section 8.06 of this Ordinance shall comply with the following:
- a. The Homeowners' Association shall own and be responsible for the maintenance of all required screening walls and fences, landscaping, landscape edges, and landscape irrigation systems, and shall provide for the payment of dues and assessments required to maintain such improvements.
  - b. The Association documents shall state that the City has no obligation to maintain or reconstruct the screening walls and fences, landscaping, landscape edges, and landscape irrigation systems in the event of damage to such improvements.

- c. The Association documents shall state that the City may, but is not obligated to, inspect screening walls and fences, landscaping, landscape edges, and landscape irrigation systems, and that the City may require maintenance and repairs necessary to ensure that such improvements are maintained to City standards.

**(h) Violations, Revocations & Liens.**

- (1) The City will notify the Homeowners' Association of violations of any of the regulations specified within this Section.
- (2) Failure to bring the subdivision into compliance with these regulations may cause the City to revoke the specific approval of the Association or take other remedies as outlined in this Section 8.11(h).
- (3) The City shall have all lien, assessment and enforcement rights granted therein to the Association, and the City shall have the ability to enforce the liens and assessments, and avail itself of any other enforcement actions available to the City pursuant to State law and/or City regulations.
- (4) Should the Association fail to carry out its duties as specified in this Ordinance, the City shall have the right and ability, after due notice to the Association, to perform the duties required by this or any other Ordinance, regulation or agreement with the City in order to bring the Association into compliance therewith. The City shall have the right and ability, after due notice to the Association to assess the Association, for the full amount owed and/or assess the property owners on a pro rata basis for all costs incurred by the City in performing said duties if the Association fails to do so. Said assessment shall constitute a lien, in favor of the City, upon the property for which the assessment is made.

**SECTION 8.12 PARKS & OPEN SPACES**

- (a) **Applicability.** This section shall not apply to Major Creeks as set forth in Section 8.03 of this Ordinance, unless otherwise noted.
- (b) **General Requirements.** Parks shall be easy to access and open to public view so as to benefit area developments, enhance the visual character of the City, protect public safety, and minimize conflict with adjacent land uses. The following guidelines shall be used in designing development around or adjacent to parks and adjacent development:
  - (1) Parks and Open Spaces. Parks shall be bounded by a street(s) or by other public uses unless otherwise specified in this Ordinance, the Zoning Ordinance, or a Planned Development (PD) ordinance (e.g. school, library, recreation center).
  - (2) Residential Lots.
    - a. Single-family and two-family residential lots shall be oriented such that they front or side onto parks and open spaces and they do not back to them, in accordance with Diagram 8.12-1.
    - b. Residential lots shall only be allowed to back onto a park or open space when the site's physical character (e.g., shape, topography, drainage) does not reasonably

accommodate an alternative design or the layout of the subdivision complements the use of the park or open space (e.g., lots backing to a golf course); lots backing to a park or open space shall only be allowed upon approval from the Director of Development Services and the Director of Parks & Recreation.

- c. All single-family residential lots in ETJ shall be located within eight hundred feet (800') of a park or open space area.
- (3) Access to Parks and Open Spaces. A proposed development adjacent to a park or open space shall not be designed to restrict public visibility or reasonable public access to the park or open space from other area developments. Street connections to existing or future adjoining subdivisions shall be required to provide reasonable access to parks and open space areas.
- (4) Non-Residential Uses Adjacent to Parks. Where a non-residential use must directly abut a park or open space area, the use shall be oriented such that it sides, and does not back, onto the park or open space area if at all possible. The use shall be separated from the park or open space by a minimum six-foot (6') tall decorative metal fence with an irrigated living screen (see Section 8.06) unless otherwise approved as a Minor Waiver, in accordance with Section 9.01, by the Director of Development Services and the Director of Parks & Recreation. Access points to the park or open space area may be required by the City if a public benefit is established.
- (5) Alleys Adjacent to Parks. Alleys should not be designed to encourage their use as a means of vehicular, bike or pedestrian travel to the park.
- (6) Public Access Points Into Parks. Public access into parks and open spaces shall not be less than fifty feet (50') in width at the public right-of-way line, at the street curb, and at any other public access point (such as along Major Creeks, etc.). Such access shall not be part of a residential lot or other private property, and shall be kept open and unobstructed at all times.
- (c) **Streets Abutting a Park.** Streets abutting a park or open space area shall be built in accordance with the City's adopted *Comprehensive Plan*, the standards of this Ordinance, and all other applicable construction standards and/or ordinances. The City may, however, require any residential street built adjacent to a park or open space to be constructed to collector-street width to provide access, to accommodate possible on-street parking for park users, and to prevent traffic congestion.
  - (1) Abutting Street Oversizing. When park or open space land is acquired by the City, the City shall require at least sixty feet (60') of right-of-way be dedicated to provide for an abutting collector-sized street, unless otherwise approved by the City.
- (d) **Park Reservation and Dedication.** Land for neighborhood and linear parks shall be reserved and dedicated in accordance with the locations recommended by the Parks and Recreation Board. All Preliminary and Final Plats shall be reviewed to determine if land dedications are necessary for neighborhood and linear parks. If land is required to be dedicated for park sites or open spaces, the City shall specify the proposed land requirements, configurations and locations. The Commission shall make the final determination of park land location and configuration during its review and approval of the Preliminary and Final Plats. Specific neighborhood and linear park sites and improvements shall be dedicated to the City upon approval of the Final Plat and upon issuance of a Letter of Final Acceptance (refer to Section 5.05).

- (e) **Site Criteria.** Neighborhood and linear park sites shall be of a suitable size, dimension, topography and general character to meet the design criteria specified in the *Parks, Recreation & Open Space Master Plan*.
- (f) **Minimum Park Improvements.** Unless waived by the Parks & Recreation Board, neighborhood and linear parks shall be improved by the developer prior to a Letter of Final Acceptance being issued by the City (refer to Section 5.05). Minimum park improvements, as determined by the City, shall include:
- (1) Grading and clearance of unwanted vegetation;
  - (2) Installation of storm drainage and stream erosion controls;
  - (3) Establishment of turf and planting of trees;
  - (4) Installation of perimeter streets and street lights; and
  - (5) Provision of water and sewer service to a location(s) on the park site as determined by the Director of Parks & Recreation and by the Director of Engineering Services.
- (g) **Additional Voluntary Park Improvements.** A developer may request permission to construct, at his or her own expense, additional park improvements. The City may accept or reject voluntary dedications of park land and/or additional park improvements. Such voluntary dedications and/or improvements shall be considered for approval by the Parks & Recreation Board. All improvements in public parks and open spaces shall be consistent with the design criteria and objectives of the *Parks, Recreation & Open Space Master Plan*, and shall, upon installation, become the property of the City. Prior to constructing such additional park improvements, the developer shall enter into a Development Agreement with the City that defines, among other things, the work to be performed, construction schedules, improvement costs, performance surety, the amount to be reimbursed by the City (if any), and the timing of such reimbursement (if any). The City's Parks & Recreation Board shall assess and submit its recommendation to the City Council, and the Council shall consider and decide the proposed Development Agreement for park improvements.
- (h) **Completion of Land Dedication and Improvements.** Park land shall be dedicated to the City concurrently with the filing of an approved Final Plat or Replat. All improvements specified in the Improvement Agreement, if applicable, shall be completed prior to approval of the Final Plat or Replat, except where future performance is provided for in the Improvement Agreement.
- (i) **Hike-and-Bike Trail Requirements.**
- (1) Hike & Bicycle Trail Master Plan. Hike-and-bike trails shall be constructed in accordance with the *Hike & Bicycle Trail Master Plan*.
  - (2) Requirements. Hike-and-bike trails, especially those providing access to and along Major Creeks and other open spaces, shall be in accordance with the following design criteria (unless otherwise approved by the Director of Parks & Recreation):
    - a. A minimum twenty-five foot (25') wide, level ground surface shall be provided for a twelve-foot (12') wide public hike-and-bike trail, where required. The twenty-five foot (25') wide, level ground surface may be provided within and/or outside of the 100-year floodplain (refer to Section 8.03).

- b. The parkway of a public street may count towards the twenty-five-foot (25')-wide, level ground surface, upon approval of the Director of Parks & Recreation.
  - c. Low water crossings for the hike-and-bike trail may be allowed upon approval from the Director of Engineering Services and the Director of Parks & Recreation.
  - d. The hike-and-bike trail shall be designed so as to minimize visibility blind spots from public streets for public safety purposes.
  - e. Construction Plans for the development (refer to Section 5.01) shall include engineered drawings of trail cross-sections in accordance with the City's *Engineering Design Standards and Construction Details*.
- (3) Locations. Locations of all trails shall be consistent with the locations designated on the *Hike & Bicycle Trail Master Plan*, and are subject to approval by the Director of Parks & Recreation.
- a. The Director of Parks & Recreation shall have the authority to determine the placement of a public hike-and-bike trail at the time of Preliminary Plat review and approval.
  - b. The location of such trails shall be safe and economical.
  - c. No development shall interrupt future trail routes or otherwise hinder efficient public access to or from an existing or future planned trail. Gated and other limited access developments shall be designed such that they facilitate, and do not impede, through public access, emergency ingress and egress, usage and enjoyment of public trails.
- (4) Trails Along Major Creeks and Greenways.
- a. The location of trails within developments adjacent to Major Creeks or greenway trails recognized on the *Hike & Bicycle Trail Master Plan* shall be coordinated with the Parks & Recreation Department, and shall be staked in the field by the developer and approved by the Director of Parks & Recreation prior to the submittal of a Preliminary Plat.
  - b. The location of the trail shall be specified on the Preliminary Plat as the approved location for the hike-and-bike trail, and an easement for such shall be shown on the Preliminary and Final Plats for any portions of the trail that traverse private property.
- (5) Trails in Relation to Golf Courses. When a trail system is extended through a golf course, improvements shall be made to protect and provide separation between users of the trail system and the golfers, at the developer's expense. Such improvements include, but are not limited to, a series of berms and trees to help protect trail users from errant golf balls. Upon approval of the Director of Parks & Recreation, a golf cart path may serve as a trail.
- (6) Future Trails and Access for New Developments. When development is adjacent to an undeveloped property, a pedestrian access stub-out in conjunction with a street connection to the edge of the development (refer to Section 8.04(b)(9)) shall be required to allow for future access between developments.

### SECTION 8.13 SUPPLEMENTAL THOROUGHFARE AND CIRCULATION DESIGN REQUIREMENTS

- (a) **Purpose.** This Section 8.13 is intended to be incorporated into the *Thoroughfare and Circulation Design Requirements* in the future.
- (b) **Street Off-Sets.** Where off-sets in street alignment are, in the opinion of the Planning & Zoning Commission unavoidable, such off-sets may be utilized, provided the distance between center lines is not less than one hundred twenty-five feet (125') for off-sets across undivided collector or local streets. Off-sets across existing or future divided thoroughfares shall be spaced as necessary to accommodate median openings and turn lanes.
- (c) **Dead-End Streets/Cul-De-Sacs.**
- (1) Turn-Arounds. Turn-arounds shall have a circular driving surface that has a minimum radius of fifty feet (50') and a street right-of-way that has a minimum radius of sixty feet (60').
  - (2) Maximum Length. The maximum length of a dead-end street with a permanent turn-around (i.e., a cul-de-sac) shall be six hundred feet (600'), as measured from the right-of-way line of the intersecting street to the center point of the turn-around circle, except in conditions of unusual topography or as may be approved as a Minor Waiver by the Director of Development Services in accordance with Section 9.01 of the Subdivision Ordinance.
  - (3) Temporary Turn-Arounds. Temporary turn-arounds and temporary turn-around easements, both of which meet the design criteria in Section 8.13(c)(1) above, shall be provided at the end of streets that will be extended in the future. The following note shall be placed on the plat: "Cross-hatched area is a temporary easement for turn-around until street is extended (give direction) in the future."
- (d) **Partial or Half-Streets.**
- (1) Partial or half-streets shall be prohibited, except:
    - a. When essential to the reasonable development of the subdivision in conforming with the other requirements of these regulations, and
    - b. Where the Planning & Zoning Commission finds, upon Preliminary Plat approval, it will be practical to require the dedication of the other one-half of the street when the adjoining property is subdivided.
  - (2) Where part of a street is being dedicated along a common property line and the ultimate planned width is sixty feet (60') or less, the first dedication shall be thirty-five feet (35');
  - (3) Where part of a street is being dedicated along a common property line and the ultimate planned width is greater than sixty feet (60'), the first dedication shall be forty feet (40').

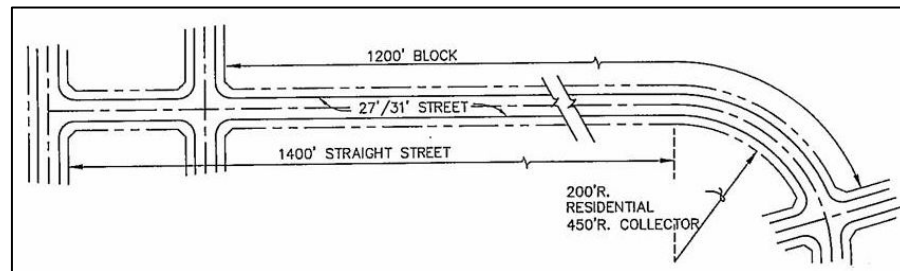


(e) **Private Streets.**

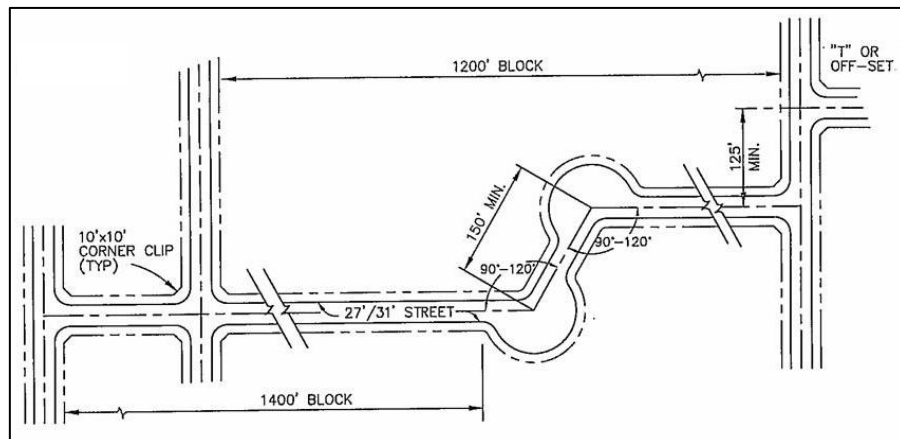
- (1) Reference Section 8.04(b)(5).
- (2) City Council Action Required. Dedicated streets and rights-of-way shall not be designated or used as private streets and such use is prohibited, except where specific approval is given by action of the City Council for properties within the City's extraterritorial jurisdiction and upon approval of a Specific Use Permit for properties within the City limits. The City Council may add any conditions as deemed appropriate as part of the approval of a Private Street Development.
- (3) Conversion of Private Streets to Public. The City may, but is in no way obligated to, accept private streets for public access and maintenance. Requests to convert Private Streets to Public Streets shall be subject to the following provisions:
  - a. The homeowners' association (HOA) shall submit a petition signed by at least fifty-one percent (51%) of its members/lot owners (or a greater number of signatures, if required by the HOA documents or Declaration).
  - b. All of the infrastructure shall be in a condition that is acceptable to the Director of Engineering Services and the Director of Public Works.
  - c. All security stations and other structures not consistent with a public street development shall be removed by the HOA, at its cost, prior to acceptance of the streets and appurtenances by the City.
  - d. All monies in the reserve fund for private street maintenance shall be delivered to the City. Money in the reserve fund in excess of what is needed to bring the streets and appurtenances up to City standards will be refunded to the HOA. Private Street developments that exist as of the adoption of this ordinance are not required to deliver a reserve fund balance to the City.
  - e. The HOA shall prepare and submit a replat to Development Services for review. Upon approval, the HOA shall file the replat to dedicate the streets and appurtenances to the City.
  - f. The HOA shall modify and re-file, at its cost, the HOA documents to remove requirements specific to Private Street developments. The City Attorney shall review the modified HOA documents prior to their filing. The HOA shall be responsible for the cost of review by the City Attorney.
- (4) HOA Requirements. Private Street developments and the related HOA shall meet all requirements of Section 8.11 of this Ordinance.

(f) **Street Lengths.**

- (1) Reference Section 8.04(b)(8).
- (2) Residential streets with sixty feet (60') of right-of-way or less, excluding collector streets, shall not exceed a maximum length of six hundred feet (600'), measured from the major thoroughfare right-of-way, and one thousand four hundred feet (1,400') for all other residential streets that do not intersect a major thoroughfare without one or more of the following design elements:
  - a. A curve radius of two hundred feet (200'). Tangent between reverse curves shall be a minimum of one hundred fifty feet (150'). A one hundred fifty foot (150') offset shall be provided within the street when reverse curves are used. See *Diagram 8.13-1*.

*Diagram 8.13-1*

- b. An offset within the street between ninety (90°) to one hundred twenty degrees (120°). Minimum offset between reverse offsets shall be one hundred fifty feet (150'). See *Diagram 8.13-2*.

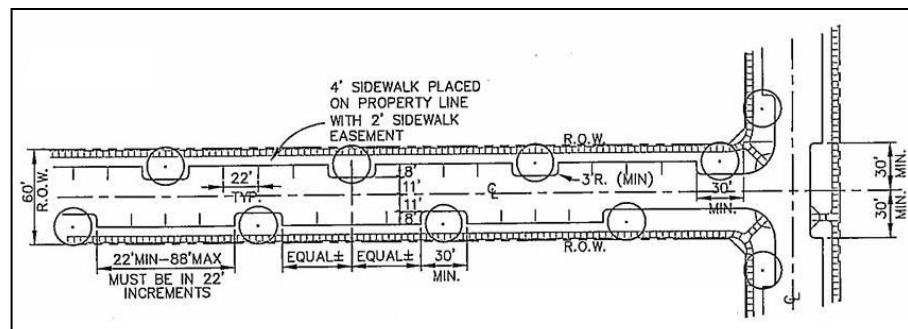
*Diagram 8.13-2*



(3) Residential streets may extend to two thousand feet (2,000') without an offset when one of the following is provided:

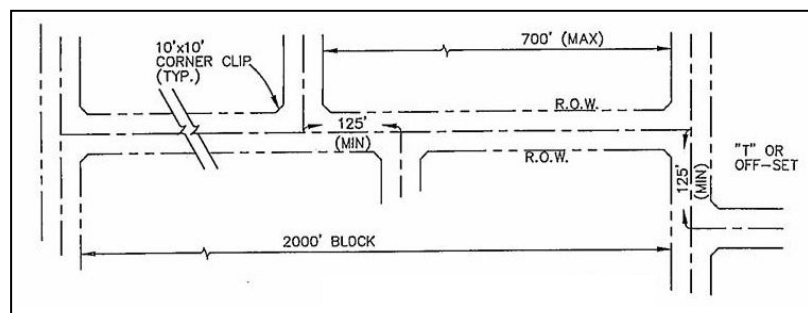
- a. A street design with twenty two foot (22') wide travel section with parking cut-outs that are eight feet (8') wide and eighty eight feet (88') long with a tree island between the parking cut-outs that measure twenty feet (20') long and eight feet (8') wide. Parking cutouts shall be offset from parking cutouts on the opposite of the street. A three inch (3") caliper tree shall be planted in each tree island. This option is not available for front entry product(s). Front entry product is prohibited on this street. See *Diagram 8.13-3*.

Diagram 8.13-3



- b. Block lengths not to exceed seven hundred feet (700') with sixty feet (60') of right-of-way with twenty seven feet (27') of residential street pavement and one (1) three inch (3") caliper tree is provided in front of each residential lot between the curb and the sidewalk. This tree is in addition to the tree(s) required on a residential lot. The tree shall be installed before the Certificate of Occupancy for the dwelling. The number of cul-de-sacs intersecting this street is limited to twenty-five percent (25%). See *Diagram 8.13-4*.

Diagram 8.13-4



- (4) A minimum three inch (3") caliper tree shall be used when trees are required by this Section 8.05(q). The types of trees are to be selected from the Zoning Ordinance. These trees shall be mechanically irrigated with a bubbler system or other approved irrigation system that minimizes water run-off and evaporation. Root barriers as approved by the City's

landscape architect shall be installed with each tree. The homeowner shall be responsible for the irrigation and maintenance of the trees.

- (5) A collector street may exceed one thousand four hundred feet (1,400') provided that no residential lots front the collector street, and the collector street shall not have any straight sections exceeding one thousand feet (1,000').
- (6) Divided roadways are excluded from the street length requirement.

**(g) Street Lighting.**

- (1) Reference Section 8.04(b)(11).
- (2) Responsible Official. The Director of Engineering Services shall be the responsible official for the administration and enforcement of the provisions within this Section 8.13(g).
- (3) Major and Minor Thoroughfares. The following standards shall apply to all Major and Minor Thoroughfares:
  - a. Location. Streetlights shall be placed in the medians, with spacing not to exceed three hundred feet (300') and no closer than one hundred fifty feet (150'), depending on median breaks and intersections.
  - b. Function. Luminaires shall be designed to function as full cutoff type of luminary(s).
  - c. Type. Die cast aluminum or extruded aluminum with segmented internal reflector, 250-watt metal halide single or double head with davit arm black in color or approved equal by the Director of Engineering Services shall be used.
  - d. Style and Height. Poles are to be round tapered with a maximum height of thirty feet (30').
  - e. Timing. Thoroughfare lighting shall be installed prior to a Letter of Final Acceptance being issued by the City (refer to Section 5.05). When partial thoroughfares are constructed the Director of Engineering Services may accept escrowed funds in lieu of installing required lighting.
  - f. Responsibility. Where thoroughfares bisect property lines, each property owner (developer) is equally responsible for the complete cost of fully developed thoroughfare lighting.
- (4) Commercial Collectors. The following standards shall apply to all Commercial Collectors:
  - a. Location. Streetlights shall be placed in the parkway between the curb and sidewalk, with spacing not to exceed three hundred feet (300') and no closer than one hundred fifty feet (150').
  - b. Function. Luminaires shall be designed to function as full cutoff type of luminary(s).
  - c. Type. Die cast aluminum or extruded aluminum with segmented internal reflector, 250-watt metal halide single head with davit arm black in color or approved equal by the Director of Engineering Services shall be used.

- d. Style and Height. Poles are to be round tapered with a maximum height of twenty feet (20').
- e. Timing. Collector lighting shall be installed prior to a Letter of Final Acceptance being issued by the City (refer to Section 5.05).
- f. Responsibility. Where collectors bisect property lines, each property owner (developer) is equally responsible for the complete cost of fully developed lighting.

(5) Residential Streets. The following standards shall apply to all Residential Streets.

- a. Location.
  - 1. Light locations shall typically be at intersections and at mid-block if the block length is greater than six hundred feet (600').
  - 2. Cul-de-sacs over three hundred feet (300'), measured from centerline of street to center point of cul-de-sac, shall have a light installed at the street intersection and at the beginning of the bulb.
  - 3. Other locations may be required as deemed necessary by the Director of Engineering Services. Lights shall not be closer than one hundred fifty (150').
- b. Type. Luminaires shall be Acorn with refractive globes, metal cap and finial.
- c. Style & Height.
  - 1. Poles are to be round tapered, American style with Barrington base, black in color.
  - 2. Residential lights shall be installed without multiple luminaires.
  - 3. Subdivisions bounded by thoroughfares shall have common style and type of luminaires.
  - 4. Maximum height not to exceed twelve feet (12') for residential streets and fourteen feet (14') for collectors.
- d. Wattage. Lamp wattages shall be one hundred (100) watts high pressure sodium.
- e. Additions. The developer may install additional banding and/or medallions with prior approval from the Director of Engineering Services. The cost for maintenance and/or replacement of the banding and/or medallions shall be the responsibility of the property owner or Homeowners' Association (HOA requirements are outlined in Section 8.11).
- f. Timing. Lighting shall be installed prior to issuance of a Letter of Final Acceptance (refer to Section 5.05).

(6) **Lighting Plan.** A Lighting Plan shall be required anytime lighting is proposed or modified.

- a. Timing of Submission. The Lighting Plan shall be submitted to the Director of Engineering Services as part of the Construction Plans.
- b. Responsibility. A certified engineer, architect, landscape architect, lighting engineer or designer shall prepare the Lighting Plan. The Plan shall also contain a

certification by the property owner or representative and the preparer of the Plan that the street lighting depicted on the Plan complies with the requirements of this Ordinance.

c. Requirements. The submission shall contain but shall not necessarily be limited to the following:

1. Plans indicating the location of the lighting, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;
2. Description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required) and height of the luminaires;
3. Photometric plan and data sheets, such as that furnished by manufacturers, or similar to that furnished by manufacturers, showing the angle of cut off or light emissions;
4. Water and sewer locations along with any other existing utilities lightly shaded on plans showing any possible location conflicts with proposed lighting.

(7) Exemptions. The following are exempt from the street lighting requirements of this Ordinance.

- a. "Cobra head" type lighting fixtures having dished or "drop" lenses or refractors which house other than incandescent light sources in undeveloped areas.
- b. Temporary lighting approved in writing by the Director of Engineering Services.
- c. Where existing or phased subdivisions are currently under construction, the continued use of previously approved lighting will be allowed unless such lighting is considered dangerous, inadequate for public safety and security, or too costly for the City to maintain long-term. However, when divided by collector-sized or larger streets, the lighting standards contained in this Ordinance, the *Thoroughfare and Circulation Design Requirements* and the *Engineering Design Standards and Construction Details* shall be required for new portions of a development.
- d. Any public street and sidewalk project within an overlay district for which the City Council has varied these requirements as part of an approval of such project.
- e. Lighting luminaires in existence on the effective date of this Ordinance shall be exempt from these standards and shall be considered legally nonconforming. Such fixtures may be repaired, maintained and/or replaced. However, the replacement of non-conforming luminaires shall comply with this Ordinance and with design standards in the *Thoroughfare and Circulation Design Requirements* and the *Engineering Design Standards and Construction Details*.

(h) **Lot Layout and Related Street Widths.**

- (1) Single-family, two-family and townhome lot(s) shall not front onto, nor shall a garage or driveway face onto, a subdivision residential street entrance for the first one hundred feet (100') of the street frontage, as measured from the intersecting thoroughfare right-of-way line.
- (2) Single-family, two-family and townhome lot(s) shall not front onto, nor shall a garage or driveway face onto, a subdivision collector street entrance for the first one hundred and fifty feet (150') of the street frontage, as measured from the intersecting thoroughfare right-of-way line.
- (3) For additional lot layout requirements, see *Thoroughfare and Circulation Design Requirements*.

(i) **Block Requirements.**

- (1) Block Width. Blocks shall be wide enough to allow two (2) tiers of lots with a block width no less than two hundred feet (200'), except when prevented by the size of the property or the need to back up to a major thoroughfare.

(j) **Sidewalks.**

- (1) Escrow. When the delay of sidewalk construction is deemed appropriate due to future right-of-way or storm drainage improvements, escrow funds in lieu of the construction of sidewalks may be approved by the Director of Engineering Services. Also refer to escrow policies and procedures within Section 5.04(f) of this Ordinance.
  - a. Such funds shall be escrowed with the City prior to Final Plat approval.
  - b. If the tract has already been platted and filed, then the funds must be escrowed prior to final approval of a Site Plan.
  - c. The escrow amount shall be determined by the square foot cost of constructing such sidewalk with a reasonable inflation factor, as estimated by the developer and as approved by the Director of Engineering Services.
- (2) Sidewalk Assessment. The City may also elect to construct sidewalks before the development and/or subdivision of a tract of land. The City shall pay for the construction of said sidewalks, and construction shall be in accordance with the standards set forth in the *Thoroughfare and Circulation Design Requirements*. But, when the land abutting the sidewalk is to be developed or subdivided, the City shall assess the owner of that abutting tract of land for the cost of construction for that portion of the sidewalk abutting their tract of land. The assessment must be paid before any plat may be filed for the property. If the tract has already been platted and the plat filed for record, then payment of the assessment must be paid prior to final approval of a site plan. If no plat is required, then payment of the assessment must be paid prior to the issuance of any building permit. This amount of the assessment shall be determined by multiplying the City's square-foot cost of constructing the sidewalk by the number of square feet of sidewalk abutting the tract of land being developed or subdivided.



## SECTION 9: RELIEF PROCEDURES

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### SECTION 9.01 PETITION FOR WAIVERS

- (a) **Purpose.** The purpose of a petition for a Waiver to a particular standard or requirement of this Ordinance, as such are applicable to Plats or Construction Plans for a project, is to determine whether or not such particular standard or requirement should be applied to an application or project.
- (b) **Definitions.** Waivers shall be classified as “minor” or “major”, as defined in Section 10.02 (Definitions) of this Ordinance.
- (c) **Decision-Maker.**
- (1) Minor Waiver. A Minor Waiver is acted upon by the Director of Development Services or the Director of Engineering Services, as specified in Table 9.01-1.
    - a. Appeal. An appeal to a decision on a Minor Waiver by the Director of Development Services or the Director of Engineering Services (as applicable) may be considered by the Commission. If further appeal is made, the City Council shall then act on such an appeal. (See Section 9.01(j)).
  - (2) Major Waiver. A Major Waiver is acted upon by the Commission.
    - a. Appeal. An appeal to a decision on a Major Waiver by the Commission may be considered by the City Council (see Section 9.01(j)).
- (d) **Applicability.**
- (1) An applicant may request a Waiver of a particular standard or requirement applicable to a Preliminary Plat, to Construction Plans, or where no Preliminary Plat application has been submitted for approval, to a Final Plat or a Replat. A Waiver petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement. An applicant may, if desired, submit more than one Waiver petition if there are several standards or requirements at issue.
  - (2) A petition for a Waiver shall not be accepted in lieu of a proportionality appeal (Section 9.02) or a vested rights petition (Section 9.03). If there is a question as to whether a proportionality appeal or vested rights petition is required instead of a petition for a Waiver, such determination shall be made by the Director of Development Services.
- (e) **Submission Procedures.**
- (1) A request for a Waiver shall be submitted in writing by the applicant with the filing of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable. No Waiver may be considered or granted unless the applicant has made such written request.

- (2) The applicant's request shall state the grounds for the Waiver request and all of the facts relied upon by the applicant. Failure to do so, will result in denial of the application unless the applicant submits a Waiver of Right to 30-Day Action in accordance with Section 3.03(e).

(f) **Criteria.**

- (1) A Waiver to regulations within this Ordinance may be approved only when, in the decision-maker's opinion, undue hardship will result from strict compliance to the regulations.
- (2) The decision-maker shall take into account the following factors:
  - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;
  - b. The number of persons who will reside or work in the proposed development; and
  - c. The effect such Waiver might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
- (3) No Waiver shall be granted unless the decision-maker finds:
  - a. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his or her land; and
  - b. That the Waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
  - c. That the granting of the Waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Ordinance.
- (4) A Waiver may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Financial hardship to the applicant shall not be deemed to constitute undue hardship.
- (5) No Waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the applicant.
- (6) The decision-maker shall not authorize a Waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the City.
- (7) Any falsification of information by the applicant shall be cause for the Waiver request to be denied. If the Waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Waiver, and shall be grounds for reconsideration of the Waiver request.



- (g) **Burden of Proof.** The applicant bears the burden of proof to demonstrate that the requirement for which a Waiver is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the applicant. The applicant shall submit the burden of proof with the original submittal.
- (h) **Decision.** The decision-maker shall consider the Waiver petition and, based upon the criteria set forth in Section 9.01(f), shall take one of the following actions:
- (1) Deny the petition, and impose the standard or requirement as it is stated in this Subdivision Ordinance; or
  - (2) Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Ordinance.
- (i) **Notification of Decision on Petition.** The applicant shall be notified of the decision on the Waiver by the applicable decision-maker (e.g., the Director of Development Services, Director of Engineering Services, Commission or City Council, as applicable), within fourteen (14) calendar days following the decision.
- (j) **Appeal.**
- (1) Initiation of an Appeal. The applicant or four (4) voting members of the Commission may appeal a waiver decision of any Director, as allowed within the Subdivision Ordinance. The written request to appeal shall be submitted to the Director of Development Services within fourteen (14) calendar days following the denial decision. (See Table 9.01-1)
  - (2) Appeal to Planning & Zoning Commission. The Commission shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. At this meeting, new information may be presented and considered, if available, that might alter the previous decision to deny the Waiver. The Commission may affirm, modify or reverse the previous decision by simple majority vote.
  - (3) Appeal to City Council. The applicant, the Director of Development Services or four (4) voting members of City Council may appeal the Commission's decision by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the Commission's decision. The City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. The City Council may affirm, modify or reverse the Commission's decision by simple majority vote. The decision of the City Council is final.
- (k) **Effect of Approval.** Following the granting of a Waiver, the applicant may submit or continue the processing of a Plat or Construction Plans, as applicable. The Waiver granted shall remain in effect for the period the Plat or Construction Plans are in effect, and shall expire upon expiration of either or both of those applications. Extension of those applications shall also result in extension of the Waiver.

## **SECTION 9.02 PROPORTIONALITY APPEAL**

### **(a) Purpose and Applicability.**

- (1) **Purpose.** The purpose of a petition for relief from a dedication or construction requirement is to ensure that the imposition of uniform dedication and construction standards to a proposed development does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's roadways and public facilities systems.
- (2) **Applicability.** A petition for relief under this Section 9.02 may be filed by the applicant to contest any requirement to dedicate land or to construct public improvements as required by this Ordinance or attached as a condition to approval of the application. A petition under this Section 9.02 shall not be used to waive standards on grounds applicable to any Waiver application, as outlined in Section 9.01.

### **(b) Petition Requirements.**

- (1) **Form of Petition.** The petition for relief from a dedication or construction requirement shall allege that application of the standard relating to the dedication or construction requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm drainage, parks or roadway system, as the case may be, or does not reasonably benefit the proposed development.
- (2) **Study Required.** The applicant shall provide a study in support of the petition for relief that includes the following information:
  - a. Total capacity of the City's water, wastewater, storm drainage, parks or roadway system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.
  - b. Total capacity to be supplied to the City's water, wastewater, storm drainage, parks or roadway system by the proposed dedication of an interest in land or construction of public improvements. If the application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of public improvements.
  - c. Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land or construction of public improvements. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.
  - d. The effect of any City participation in the costs of oversizing the public improvement to be constructed in accordance with the City's requirements.

- e. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.
- (3) Time for Filing Petition and Study. A petition for relief from a dedication or construction requirement shall be filed with the Director of Engineering Services within fourteen (14) calendar days following the Commission's decision to conditionally approve or deny an application for approval of an application. The study in support of the petition shall be filed within sixty (60) calendar days following the initial decision, unless the applicant (petitioner for relief) seeks an extension in writing. The Director of Engineering Services may extend the time for submitting the study for a period not to exceed an additional thirty (30) calendar days for good cause shown.
- (4) Land in Extraterritorial Jurisdiction (ETJ). Where land or facilities to be dedicated are located in the ETJ of the City and are to be dedicated to Collin or Denton County, a petition for relief or study in support of the petition shall be accepted as complete for review by the Director of Engineering Services only when such petition or study is accompanied by verification that a copy has been delivered to and accepted by Collin or Denton County, as applicable.
- (c) **Processing of Petitions and Decision.**
- (1) Responsible Official. The Director of Engineering Services shall be the responsible official for a petition for relief from a dedication or construction requirement (see Section 2.04(a)(9)). Where the petition is for relief from dedication of rights-of-way or construction of a facility in the City's ETJ that is to be dedicated to Collin or Denton County, the Director of Engineering Services shall coordinate a recommendation with the appropriate County official responsible for reviewing plats.
- (2) Evaluation & Recommendation.
- a. The Director of Engineering Services shall evaluate the petition and supporting study and shall make a recommendation to the Commission for their consideration and recommendation to the City Council.
  - b. In evaluating the petition and study, the Director of Engineering Services shall take into account the maximum amount of any impact fees to be charged against the development for the type of public improvement that is the subject of the petition, or similar developments on the City's water, wastewater, roadway, storm drainage or parks systems. The Director of Engineering Services may utilize any reasonable methodology in evaluating the applicant's study, including impact fee methodologies.
  - c. In order to achieve proportionality between the demands created by a proposed development on public facilities and the obligation to provide adequate public facilities, the City may participate in the costs of public improvements, credit or offset the obligations against payment of impact fees, or relieve the property owner any of the obligations in response to a petition for relief from a dedication or construction requirement pursuant to Section 9.02.

- (3) Decision-Maker. The Commission shall decide the petition for relief from a dedication or construction requirement.
- (4) Public Hearing. The Commission shall conduct a public hearing within sixty (60) calendar days after the study supporting the petition (refer to Section 9.02(b)) is filed with the Director of Engineering Services.
- (5) Burden of Proof. The applicant bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the applicant.
- (6) Decision. The Commission shall consider the petition for relief from a dedication or construction requirement based upon the following criteria:
  - a. The Commission shall determine whether the application of the standard or condition is roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm drainage, parks or roadway system, and whether the application of the standard or condition reasonably benefits the development.
  - b. In making such determination, the Commission shall consider the evidence submitted by the applicant, the report and recommendation of the Director of Engineering Services and, where the property is located within the City's ETJ, any recommendations from Collin or Denton County, as applicable.
- (7) Action. Based on the criteria in Section 9.02(c)(6), the Commission shall take one of the following actions:
  - a. Deny the petition for relief, and impose the dedication or construction requirement as required by this Ordinance; or
  - b. Grant the petition for relief, and waive any dedication or construction requirement to the extent necessary to achieve proportionality; or
  - c. Grant the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the public improvement under standard participation policies.
- (8) Notification of Decision on Petition. The applicant shall be notified of the decision on the petition for relief by the Director of Engineering Services within fourteen (14) calendar days following the Commission's decision.

**(d) Appeal of the Decision on a Petition for Relief.**

- (1) Initiation of an Appeal. The applicant or no less than four (4) voting members of City Council may appeal the decision of the Commission by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the date of the Commission's decision.
  - a. For a City Council-initiated appeal, the Council shall consider and act on whether it will appeal the Commission's decision at its first regular meeting (for which there is time to include such appeal on its posted agenda, as required by State law) that occurs after the Commission meeting at which the decision was made.

- b. Written notice of the City Council's vote to appeal shall be submitted to the Director of Development Services within seven (7) calendar days following the City Council's vote to appeal the decision.
  - c. For an applicant-initiated appeal, a letter stating the reasons for the appeal, citing the specific applicable section(s) of the Subdivision Ordinance, shall be submitted by the applicant.
  - d. The Director of Development Services may, on his/her own initiative, appeal the decision of the Commission by scheduling an appeal on the City Council's next regular meeting (for which there is time to include such appeal on its posted agenda as required by State law) that occurs after the Commission meeting at which the decision was made.
- (2) Council Decision. The City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. The City Council may affirm, modify or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final.
- (e) **Expiration or Failure to File Application.** Where an application was denied based upon the imposition of the standard requiring dedication of land or construction of a required public improvement and the Commission's decision (or decision on appeal) is to grant some level of relief, the applicant shall resubmit the application within sixty (60) calendar days following the date the petition for relief is granted, in whole or in part, showing conformity with the Commission's decision (or decision on appeal) on the petition.
- (1) If such re-submittal of the application is not made within the sixty-day (60-day) period, the relief granted by the Commission on the petition shall expire.
  - (2) If the re-submittal of the application is modified in any other way, a new petition for relief may be required by the Director of Engineering Services.
  - (3) If the application for which relief was granted is denied on other grounds, a new petition for relief may be required by the Director of Engineering Services.
- (f) **Effect of Relief.**
- (1) The Director of Engineering Services may require the applicant to submit a modified application or supporting materials consistent with the relief granted by the Commission on the petition.
  - (2) The relief granted on the petition shall remain in effect for the period the application is in effect, and shall expire upon expiration of the plat or related application.

### SECTION 9.03 VESTED RIGHTS PETITION

- (a) **Purpose.** The purpose of a vested rights petition is to determine whether an application should be processed under the terms of a previous ordinance, to provide a process for determination of possible vested status, and to determine when certain permits are subject to expiration.
- (b) **Applicability.**
- (1) A vested rights petition may be submitted for any application authorized under this Ordinance.
  - (2) A vested rights petition cannot be submitted by an applicant along with submission of a request for a text amendment to this Ordinance, a Zoning Map amendment, or any other request for a legislative decision by the City Council.
- (c) **Submission.** A vested rights petition shall be submitted to and officially filed with the City's responsible official (see Section 9.03(g)) in accordance with the Texas Local Government Code, Chapter 245 or successor statute. Submission of a vested rights petition shall be deemed as an automatic waiver of the applicant's right, and the City's obligation, to process and act upon applications as required by State law (Chapter 212 of the Texas Local Government Code), and as provided in Section 3.03(e) of this Ordinance. Submission of such petition shall stay further proceedings on the related application until a final decision is reached on the vested rights petition.
- (d) **Effect.** If a properly submitted vested rights petition is approved in whole or in part, the responsible official shall then process the original application and the decision-maker shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards, or shall extend the validity of the original application that would otherwise be subject to expiration pursuant to this Ordinance.
- (e) **Form of Petition.** The vested rights petition shall allege in writing that the applicant has a vested right for some or all of the land subject to the application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application under standards that were in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
- (1) A written vested rights petition form, with a notarized original signature of the property's owner;
  - (2) A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific standard or to an entire project;
  - (3) A copy of each approved or pending application which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition;
  - (4) The official filing date of the application;
  - (5) The date the subdivision for which the application was submitted was commenced;



- (6) Identification of all standards otherwise applicable to the application from which relief is sought;
  - (7) Identification of any current standards which applicant agrees can be applied to the application at issue;
  - (8) A narrative description of how the application of current standards affect proposed landscaping, open space or park dedication, shown on the application for which the petition is filed;
  - (9) A copy of any prior vested rights determination involving the same land; and
  - (10) Whenever the applicant alleges that an application subject to expiration should not be terminated, a description of the events constituting progress toward completion of the subdivision for which the application was approved. The applicant shall reimburse the City for all related legal costs for review of the vested rights petition. This reimbursement shall be paid in full prior to any decision on the petition.
- (f) **Time for Filing Petition.** A vested rights petition shall be filed with an application for which a vested right is claimed, except that the petition may be filed before the date of expiration of any already approved application when filed pursuant to Section 9.03(m), *Dormant Projects*. Where more than one application is authorized to be filed simultaneously by this Ordinance, the petition may be filed simultaneously for each application.
- (g) **Processing of and Decision on Petition.**
- (1) Responsible Official. The responsible official for a vested rights petition is the same as that for processing the application with which the petition is associated, except where a petition is submitted pursuant to Section 3.08 of this Ordinance, *Expiration for Projects Approved Prior to September 1, 2005*. Where multiple applications are submitted, and there is more than one responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the vested rights petition. The City Attorney shall also be notified of the vested rights petition following its filing and acceptance for processing. The applicant shall reimburse the City for all related legal costs for review of a vested rights petition. This reimbursement shall be paid in full prior to filing of the Final Plat.
  - (2) Action and/or Decision by Responsible Official.
    - a. If the responsible official is the decision-maker on the original related application, that official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and recommendation.
    - b. The applicant shall be notified of the decision within fourteen (14) calendar days following the date the vested rights petition was filed at the City.
    - c. The responsible official may defer making a decision on the vested rights petition and instead forward the petition to the Commission for a decision, in accordance with the process outlined in Section 9.03(g)(3).



- (3) Decision by Planning & Zoning Commission. If the original related application is to be decided by the Commission, or if the responsible official defers making a decision on a vested rights petition pursuant to Section 9.03(g)(2)c., the responsible official for that type of application shall submit a report in the form of a recommendation on the vested rights petition to the Commission. The Commission shall render a decision on the vested rights petition within thirty (30) calendar days following the date the petition was filed at the City. The Commission's decision on a vested rights petition shall be upon a simple majority vote of the full Commission's voting members.
- (4) Decision by City Council. Where the City Council is the final decision-maker on the related application, or for any petition submitted pursuant to Section 9.03(m), *Dormant Projects*, the responsible official for that type of application shall submit a report in the form of a recommendation on the vested rights petition to the City Council. The Council shall render a decision on the vested rights petition within thirty (30) calendar days following the date the petition was filed at the City. The City Council's decision on a vested rights petition shall be upon a simple majority vote of the full Council's voting members, and shall be final.
- (5) Appeal of Decision on Petition. The applicant may appeal, to City Council, the responsible official's or Commission's decision on the vested rights petition by submitting written notice of appeal to the applicable responsible official within fourteen (14) calendar days following the date of such decision. The City Council shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal by the City. Approval of an appeal by the City Council shall only be upon a favorable vote of at least four (4) of the Council's voting members, and shall be final.
- (6) Effect on Related Applications. A final decision on the vested rights petition or appeal under this Section must be achieved prior to further processing, and prior to any consideration of, or decision on, the related application. Upon such final resolution and decision on a vested rights petition, the responsible official shall commence processing, review and consideration for the related application as provided in this Ordinance.

**(h) Criteria for Approval.**

- (1) Factors. The decision-maker shall decide the vested rights petition based upon the following factors:
- The nature and extent of prior applications filed for the land subject to the petition;
  - Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
  - Whether any prior approved applications for the property have expired or have been terminated in accordance with State law or local ordinances;
  - Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed application;
  - Whether any statutory exception applies to the standards in the current Subdivision Ordinance from which the applicant seeks relief;

- f. Whether any prior approved applications relied upon by the applicant have expired;
- g. For petitions filed pursuant to Section 3.08 of this Ordinance, *Expiration for Projects Approved Prior to September 1, 2005*, whether any of the events in Section 3.08 have occurred;
- h. Any other applicable provisions outlined in the Texas Local Government Code Chapter 245, 43.002, or successor statute.

(2) Conditions. If the claim of vested rights is based upon a pending application, subject to standards that have been superseded by current standards of this Ordinance, the decision-maker may condition any relief granted on the vested rights petition on the approval of the pending application.

(i) **Action and Record of Action on the Vested Rights Petition.**

(1) Action. The decision-maker may take any of the following actions:

- a. Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards; or
- b. Grant the relief requested in the petition, and direct that the related application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
- c. Grant the relief requested in part, and direct that certain identified current standards be applied to the related application, while standards contained in identified prior regulations also shall be applied; or
- d. For petitions filed pursuant to Section 3.08 of this Ordinance, *Expiration for Projects Approved Prior to September 1, 2005*, specify the expiration date or the conditions of expiration for the related application(s).

(2) Record. The responsible official's report and the decision on the vested rights petition shall be recorded in writing in an order identifying the following:

- a. The nature of the relief granted, if any;
- b. The related application(s) upon which relief is premised under the petition;
- c. Current standards which shall apply to the related application for which relief is sought, if applicable;
- d. Prior standards which shall apply to the related application for which relief is sought, including any procedural standards, if applicable;
- e. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
- f. To the extent feasible, subsequent related applications that are subject to the same relief granted on the petition; and
- g. For petitions filed pursuant to Section 3.08 of this Ordinance, *Expiration for Projects Approved Prior to September 1, 2005*, the date of expiration of the related application.

**(j) Related Application Following Final Decision on the Vested Rights Petition.**

- (1) Following the City's final decision on the vested rights petition, the applicant shall, if necessary, revise the related application such that it conforms to the City's decision on the vested rights petition.
- (2) The decision-maker on the related application shall review and consider the revised application in accordance with the procedures for deciding that type of application, as outlined in this Ordinance, and in conformity with any relief granted.
- (3) If the relief granted on the vested rights petition is consistent with the related application on file, no revisions shall be necessary, and the related application shall be deemed officially filed at the time of the final decision on the vested rights petition.

**(k) Appeal of the Decision on a Vested Rights Petition.**

- (1) Initiation of an Appeal. The applicant or no less than four (4) voting members of City Council may appeal the decision of the Commission by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the date of the Commission's decision.
  - a. For a City Council-initiated appeal, the Council shall consider and act on whether it will appeal the Commission's decision at its first regular meeting (for which there is time to include such appeal on its posted agenda, as required by State law) that occurs after the Commission meeting at which the decision was made.
  - b. Written notice of the City Council's vote to appeal shall be submitted to the Director of Development Services within seven (7) calendar days following the City Council's vote to appeal the decision.
  - c. For an applicant-initiated appeal, a letter stating the reasons for the appeal, citing the specific applicable section(s) of the Subdivision Ordinance, shall be submitted by the applicant.
  - d. The Director of Development Services may, on his/her own initiative, appeal the decision of the Commission by scheduling an appeal on the City Council's next regular meeting (for which there is time to include such appeal on its posted agenda as required by State law) that occurs after the Commission meeting at which the decision was made.
- (2) Council Decision. The City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. The City Council may affirm, modify or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final.

(l) **Expiration & Extension.**

- (1) Expiration. Relief granted on a vested rights petition shall expire on occurrence of one of the following events:
- a. The applicant fails to submit a revised application that is consistent with the relief granted, if any, within sixty (60) calendar days following the final decision on the vested rights petition;
  - b. The application for which relief was granted on the vested rights petition is denied; or
  - c. The application for which relief was granted on the vested rights petition expires.
- (2) Extension. Extension of the date of expiration for the application for which relief was granted on a vested rights petition shall result in extension of the relief granted on the vested rights petition for the same time period.

(m) **Dormant Projects.**

- (1) Definitions. For purposes of this Section 9.03(m) only:
- a. Initial permit means any of the following types of approvals granted under this Subdivision Ordinance, or any predecessor subdivision or development-related ordinance that was in effect prior to the adoption of this Ordinance: Preliminary Plat, Construction Plans, Construction Release, Waivers to any requirement in this Subdivision Ordinance (per Section 9.01), or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of development, lots or improvements on a site intended for development.
  - b. Final permit means a Final Plat approved under this Subdivision Ordinance, or any predecessor subdivision or development-related ordinance that was in effect prior to the adoption of this Ordinance.
- (2) Expiration of Permits. Any application for an initial permit that was approved or filed before, but that was not subject to an expiration date, two (2) years prior to the adoption date of this Subdivision Ordinance shall expire on the effective date of this Subdivision Ordinance.
- (3) Reinstatement. The property owner of the land subject to an initial permit that expires under Section 9.03(m)(2) may petition the Commission to reinstate such permit by filing a written petition within sixty (60) calendar days following the effective date of this Subdivision Ordinance. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:
- a. As of two (2) years prior to the effective date of this Subdivision Ordinance, one of the following events had occurred:
    - i. A final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the approved initial permit and was approved by the City, or was filed and was subsequently approved by the City;

- ii. An application for a final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness (consistent with Texas Local Government Code, Chapter 245.005(c)(2));
  - iii. Costs for development of the land subject to the initial permit, including costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
  - iv. Fiscal security was posted with the City to guarantee performance of obligations required under this Subdivision Ordinance, including the construction of required improvements associated with the proposed development, for all or a part of the land subject to the approved initial permit; or
  - v. Utility connection fees or impact fees for all or part of the land subject to the approved initial permit were paid to the City.
- b. After two (2) years prior to the adoption date of this Subdivision Ordinance, but before the expiration date specified in Section 9.03(m)(2), one of the following events had occurred:
- i. A final permit was approved for all or part of the land subject to the approved application, and remained in effect for such land on such expiration date; or
  - ii. A complete application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.

(4) Commission Action on Reinstatement. The Commission may take one of the following actions:

- a. Reinstatement the expired initial permit without an expiration date, if it finds that the applicant has met any one of the criteria listed in Section 9.03(m)(3)a.;
- b. Reinstatement the initial permit for all or part of the land subject thereto, if it finds that the applicant has met any one of the criteria listed in Section 9.03(m)(3)b., subject to such expiration dates or other conditions that ensure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the Commission may require that development of such remaining land is subject to standards enacted after approval of the initial permit;
- c. Deny the reinstatement petition, if it finds that the applicant has failed to meet any of the criteria in Section 9.03(m)(3); or
- d. Reinstatement the permit for only that part of the land subject to a pending final permit application, if it finds that the applicant has met the criteria in Section 9.03(m)(3)b.2

and the pending application subsequently was approved, and deny the reinstatement petition for the remaining land subject to the expired initial permit.

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## SECTION 10: DEFINITIONS

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### SECTION 10.01 USAGE & INTERPRETATION

- (a) **Usage.** The definitions within this Section 10 are intended to provide descriptions for words and terms used within this Subdivision Ordinance. Absent any conflict, words and terms used in this Subdivision Ordinance shall have the meanings ascribed thereto in this Section 10.
- (b) **Conflicts.** When words and terms are defined herein, and are also defined in other ordinance(s) of the City, they shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this Section 10 shall control.
- (c) **Present and Past Tenses.** Words used in the present tense include the future; words in the singular number include the plural number, and words used in the plural number include the singular number.
- (d) **Usage of Shall and May.** The word shall is mandatory and not directory. The word may is directory and not mandatory.
- (e) **Words Not Defined.** For any definition not listed in this Section 10, the definition found within the latest edition of Webster's Dictionary shall be used.
- (f) **Certain Terms and Words.** Certain terms and words are to be used and interpreted as described and/or defined within the sections of this Subdivision Ordinance wherein they apply to certain regulations.

### SECTION 10.02 DEFINITIONS

- (a) **Definitions.** The following definitions shall apply to terms and words used within this Subdivision Ordinance.

100-Year Floodplain. The flood having a one percent (1%) chance of being equaled or exceeded in any given year, based upon a fully developed watershed and the City's criteria to accommodate a 100-year storm in a Major Creek.

Abutting. Adjacent, adjoining and contiguous to. It may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, waterline, park, or open space.

Access. A means of approaching or entering a property, or the ability to traverse a property (such as in the use of the phrase pedestrian access easement).

Alley. A minor right-of-way, generally dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for utility service purposes.

Amending Plat. See *Plat, Amending*.

Amenity. Aesthetic or other physical improvements to a development that increase its quality, desirability, and/or marketability to the public, and that are described within Section 8.11(c)(1) of this Ordinance.

Appeal. A request for review of and relief from any decision applying a provision of this Ordinance.

Applicant. The person or entity responsible for the submission of an application. The applicant must be the actual owner of the property for which an application is submitted, or shall be a duly authorized representative of the property owner. Also see *Developer*.

Application (also Development Application, Plat Application). The package of materials, including but not limited to an Application Form, a Plat, completed checklist, Tax Certificate, Construction Plans, special drawings or studies, and other informational materials, that is required by the City to initiate City review and approval of a development project.

Application Form. The written form (as provided by and as may be amended by the City) that is filled out and executed by the Applicant and submitted to the City along with other required materials as a part of an application.

Application, Complete. See *Complete Application*.

Approval. Approval constitutes a determination by the official, board, commission or City Council responsible for such determination that the application is in compliance with the minimum provisions of this Ordinance. *NOTE:* Such approval does not constitute approval of the engineering or surveying contained in the plans, as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.

Arterial Street. See *Thoroughfare, Major or Minor*.

Block. A grouping of residential lots (and their alleys) that are partially or fully surrounded by one or more streets. A block consists of one or two tiers of lots. Lots that are separated by an alley are in the same block, but lots that are separated by a street are in different blocks.

Buffer. An area of permanent native vegetation that is adjacent to a water course and/or wetland that is managed to maintain the integrity of the water course and/or wetland to reduce the impact of upland sources by:

- a. Trapping, filtering and converting pollutants;
- b. Reducing sediment loads;
- c. Reducing runoff velocity;
- d. Stabilize stream banks and wetland edges;
- e. Reduce water temperatures; and
- f. Provide habitat for urban wildlife.

Building. Any structure intended for shelter, occupancy, housing or enclosure for persons, animals or property. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

Building Line. A line parallel, or approximately parallel, to any front lot line at a specific distance therefrom, marking the minimum distance from the front lot line that a building may be erected.

Building Permit. An official certificate issued by the City through the Chief Building Official that indicates conformance with or approved conditional waiver from City regulations and authorizes construction of buildings or other described construction on the premises for which it is issued.

Centerline, Streets or Alleys. An imaginary line erected midway between the bounding right-of-way lines of a street or alley. Where the bounding right-of-way lines are irregular, the centerline is to be determined by the Director of Engineering Services.

Certificate of Occupancy. An official certificate issued by the City through the Chief Building Official that indicates conformance with or approved conditional waiver from City regulations and authorizes legal use of the premises for which it is issued; may be referred to as an Occupancy Permit.

Chief Building Official. The person(s) so designated by the Director of Development Services to provide oversight for and have responsibility of the Building Inspections Division of the Development Services Department; such official issues Building Permits and Certificates of Occupancy and enforces the Zoning Ordinance, Building Code, and any applicable provisions of this Subdivision Ordinance. This term shall also include any designee of the Chief Building Official.

City. The City of Frisco, Texas, unless otherwise specified in the regulation.

City Attorney. The person(s) so designated by the City Council to provide oversight for and have legal responsibility for the City. This term shall also include any designee of the City Attorney.

City Council. The elected body that governs the City under State law and City Charter and that is duly authorized to operate in the manner prescribed by City ordinances and resolutions. The term *City Council* as used within this Subdivision Ordinance shall mean the City Council of the City of Frisco.

City Engineer. See *Director of Engineering Services*.

City Manager. The person(s) so designated by the City Council, or the City Manager's designee.

City Planner. See *Director of Development Services*.

Collector Street. Those streets which carry traffic from local streets to major thoroughfares and freeways. Such streets shall also be as described within the City's *Comprehensive Plan and Thoroughfare and Circulation Design Requirements*. Also may be referred to as a *Type C Thoroughfare* or *Type D Thoroughfare*.

Commenced/Commencement. Refers to the beginning of the development (or construction) of a subdivision; the initial disturbance of soils associated with clearing, grading, or excavating activities.

Commission. The Planning & Zoning Commission of the City of Frisco. See *Planning & Zoning Commission*.

Complete Application. An application that meets the standards of this Subdivision Ordinance, and has been deemed complete by the City in accordance with Section 3.03 of this Ordinance and the Texas Local Government Code, Chapter 245, or successor statute.

Comprehensive Plan. The City's officially adopted Comprehensive Plan which includes policies, in written and graphic form, on (but not limited to) thoroughfares, land use, parks, open space, hike and bicycle trails, and other facets of the City's physical form; such policies govern the future development of the City and consist of various components governing specific geographic areas, functions, and services of the City.

Construction. See *Development*.

Construction Plans. The drawings and technical specifications that conform to this Ordinance and all other applicable ordinances of the City. Construction Plans, including bid documents, contract conditions, and escrow agreements, where applicable, provide a graphic and written description of the character and scope of the work to be performed in construction of a development.

Conveyance Plat. See *Plat, Conveyance*.

Construction Release. Official authorization by the City, through the Director of Engineering Services, that indicates conformance with City regulations and authorizes construction of improvements or other described construction, in conformance with approved Construction Plans, on the premises for which it is given.

Corner Lot. See *Lot, Corner*.

Cul-De-Sac. Cul-de-sac shall mean a *Local Street* (see definition) having only one vehicular access to another street and terminated by a vehicular turn-around.

Day, Business. Shall be defined as Monday through Friday, excluding City-recognized holidays.

Day, Calendar. Each day of a particular calendar year.

Dead End Street. Dead end street shall mean a street, other than a cul-de-sac, with only one outlet.

Deed Restriction. A limitation on the use of land set forth or referred to in the title deed of such land. Such limitations run with the land and are binding upon present and subsequent owners of the land. Deed restrictions are not enforced by the City.

Developer. A person or entity, limited to the property owner or duly authorized representative thereof, who proposes to undertake or undertakes the division or improvement of land and/or other activities covered by this Subdivision Ordinance so as to constitute a *subdivision*, including the preparation of a plat showing the layout of the land and the public improvements involved therein. The word *developer* is intended to include the terms *subdivider*, *property owner*, and, when submitting platting documents, *applicant*.

Development. Any activities related to the platting or physical subdivision of land including the construction, reconstruction, conversion, or enlargement of buildings or structures; the construction of impervious surfaces (e.g., parking lots); the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the

land in preparation for such construction activities, including grading, drainage, storage, paving, clearing, filling, and/or removal of vegetation or soil, and any mining, dredging, excavation or drilling operations.

Development Agreement. An agreement authorized and in accordance with Section 212.172 of the Texas Local Government Code between the City and a property owner within the City or in the ETJ.

Development Application. An application for any type of plat or construction plan/drawing authorized or addressed by this Subdivision Ordinance. Also may be referred to as a *permit* within the Texas Local Government Code, Chapter 245.

Development Plat. See *Plat, Development*.

Director of Engineering Services. The person(s) so designated by the City Manager to provide oversight for and have responsibility of the Engineering Services Department; as used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Engineering Services.

Director of Parks & Recreation. The person(s) so designated by the City Manager to provide oversight for and have responsibility of the Parks & Recreation Department; as used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Parks & Recreation.

Director of Development Services. The person(s) so designated by the City Manager to provide oversight for and have responsibility of the Development Services Department; as used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Development Services.

Director of Public Works. The person(s) so designated by the City Manager to provide oversight for and have responsibility of the Public Works Department; as used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Public Works.

Double-Frontage Lot. See *Lot, Double Frontage*.

Driveway. A paved entranceway serving primarily vehicles that allows for access to a lot or facility, and is intended for vehicular movements between the roadway and any portion outside the street right-of-way.

Easement. A right granted to the City, to the public generally, and/or to a private entity for the purpose of limited public or semi-public use across, over, or under private land.

EDSCD. See *Engineering Design Standards and Construction Details*.

Engineer. A person who has been duly licensed by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas. (Also known as *Professional Engineer, Registered Engineer, Registered Professional Engineer, or Licensed Engineer*.)

Engineering Design Standards and Construction Details. A document adopted by City Council by resolution or ordinance, which is intended to establish standards for the design and construction of public facilities.

ETJ. See *Extraterritorial Jurisdiction*.

Exemption. A specified reason why a particular development is not subject to the requirements to plat or to a specific provision of this Ordinance.

Extraterritorial Jurisdiction (ETJ). The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distance as stipulated in Chapter 42 of the Texas Local Government Code, according to the population of the City, and in which area the City may regulate subdivisions and enjoin violation of provisions of this Subdivision Ordinance.

Facility(s). Infrastructure and other structures that support a development including, but not limited to, water distribution lines, sanitary sewer collection lines, storm sewer lines and other storm water management devices, thoroughfares, sidewalks, private utilities, etc.

Fence, Ornamental Metal. A decorative metal (such as “wrought iron”) fence that shall be constructed of solid stock materials or tubular steel with minimum 16-gauge pickets, 11-gauge posts, and masonry support columns at maximum thirty feet (30’) on center. Shall not include “chain link” type fencing.

File/File/Filing. See *Official Filing Date and Submission*.

Final Plat. See *Plat, Final*.

Fire Chief. The person(s) so designated by the City Manager to provide oversight for and have responsibility of the Fire Department; as used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Fire Chief.

Fire Lane Easement. See definition in the City’s adopted Fire Code.

Flag Lot. See *Lot, Flag*.

Front Lot Line. See *Lot Line, Front*.

Habitat Study. A study in which the main purpose is the identification and protection of declared, critical habitat for threatened or endangered species and habitat used for nesting by birds listed in the Migratory Bird Treaty Act (MBTA).

Hike & Bicycle Trail Master Plan. The City’s officially adopted Plan which includes policies in graphic and text form; such policies govern the future development of the City’s hike-and-bike trail system.

Homeowners’ Association (HOA). A community association which is organized within a development in which individual owners share common interests and responsibilities for open space, landscaping, amenities or facilities, and which operates under recorded land agreements. This term also includes Property Owners’ Associations (POAs) and Property Management Corporations (PMCs) which are more typically formed for multi-family and nonresidential developments.

Improvement. Any man-made fixed item which becomes part of or placed upon real property.



Improvement Agreement. A legally binding document that is required by this Ordinance under Section 5.04 whenever public improvements to serve a development are deferred until after Final Plat approval and recordation. Such document outlines the developer's acknowledged responsibility to complete and warranty improvements and to provide financial security for such improvements.

Improvement, Public. Any improvement, facility or service together with its associated public site, right-of-way or easement necessary to provide transportation, storm drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for which the City ultimately assumes the responsibility, upon a Letter of Final Acceptance being issued, for maintenance, operation and/or ownership.

Interior Lot. See *Lot, Interior*.

iSWM. The acronym for integrated Storm Water Management, which is a guide for the construction and design of developments. This guide is intended to help mitigate the impact of developments on storm water runoff by considering such runoff during early site planning and design phases. This guide was created by the North Central Texas Council of Governments (NCTCOG).

Key Lot. See *Lot, Key*.

Local Street. A street that is intended to provide a high level of access to adjacent developments and, generally, a low level of mobility. Such streets shall also be as described within the City's *Comprehensive Plan and Thoroughfare and Circulation Design Requirements*.

Lot. An undivided tract or parcel of land that is or may be offered for sale, conveyance, or improvement and is occupied or intended to be occupied by a building or group of buildings. A lot has its principal frontage on a public street or officially approved private street, as shown on a plat of record or described by metes and bounds.

Lot, Corner. A lot which has at least two adjacent sides abutting for their full lengths on a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five degrees ( $135^{\circ}$ ).

Lot Depth. The horizontal distance measured perpendicularly between two points on the front lot line and two points on the rear lot line which creates an area that meets (or exceeds) the zoning district's minimum width and depth requirements. Lot depth shall not include easements which are located behind the front building line that impair the use of the lot surface as a yard.

Lot, Double Frontage. A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, Flag. A lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width. May also be referred to as a Panhandle Lot. (See Diagram 8.09-1)

Lot, Interior. A lot other than a corner lot.

Lot, Key. A corner lot that is designed such that the lots located directly behind it face the side street of the corner lot and are not separated by an alley.



Lot Frontage. That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

Lot Line, Front. The narrower side of the lot abutting a street. Where two (2) lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be designated as the *Front Lot Line*, and therefore the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line and lies along the same general directional orientation as the front and rear lot lines, said line shall be considered a front lot line in establishing minimum setback lines. (see Zoning Ordinance, Article VI, Appendix 1, Illustration #10).

Lot Line, Rear. The lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero. (see Zoning Ordinance, Article VI, Appendix 1, Illustration #12)

Lot Line, Side. Any lot line not the front or rear lot line.

Lot Lines. The lines bounding a lot as defined herein. May also be referred to as a *Property Line*.

Lot of Record. A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Collin or Denton County or a lot subdivided by metes and bounds description prior to February 1984.

Lot Width. The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line that is closest to the front lot line. (see Zoning Ordinance, Article VI, Appendix 1, Illustration #10)

Major Creek. The term Major Creek shall include the primary channel and all headwaters (i.e., tributaries where a definable channel is established) of those creeks commonly known as Cottonwood Creek, Panther Creek, Parvin Branch, Rowlett Creek, Whiterock Creek, and Stewart Creek (See Diagram 8.03-1).

Major Thoroughfare. See *Thoroughfare, Major*.

Maximum. For the purposes of this Ordinance, "the maximum" is the amount that is required by this ordinance of a developer but a developer may choose to construct or provide less than the maximum, unless otherwise specified.

Metes and Bounds. A method of describing the boundaries of land by directions and distances from a known point of reference.

Minimum. For the purposes of this Ordinance, "the minimum" is the amount that is required of a developer but a developer may choose to construct or provide additionally above the minimum required, unless otherwise specified.

Minor Plat. See *Plat, Minor*.

Minor Thoroughfare. See *Thoroughfare, Minor*.

MS4. The acronym for the City's Municipal Separate Storm Sewer System.

Off-Site. Any premises not located within the area of the property to be subdivided, whether or not in common ownership with the applicant submitting an application.

Official Filing Date. The date an application is deemed complete by the responsible official in the manner prescribed by Section 3.03 of this Subdivision Ordinance.

Open Space. Any land parcel or natural area that is set aside, dedicated, designated or reserved for public use and enjoyment, or for private use and enjoyment of owners and occupants of the land adjoining or neighboring such open space area. Open Space shall have no dimension less than fifty feet (50') in any direction, and shall not include remnant property unless it is noted for thoroughfare screening or natural areas where the topography is not impacted, in which case it may be less than fifty feet (50') in width.

Ordinance (also referred to as "this Ordinance"). Refers to this Subdivision Ordinance of the City, as may be amended in the future.

Park or Playground. An area developed for active or passive play and recreation that includes open space, sports courts or fields, play equipment, and trails.

Parks, Recreation & Open Space Master Plan. The City's officially adopted Plan which includes policies in graphic and text form; such policies govern the future development of the City's parks, recreation and open space system.

Pedestrian Access. A specifically designated place, path, means, or way by which pedestrians shall be provided safe, adequate, and usable circulation through the interior of a property or development.

Permit. A license, certificate, approval, registration, consent, permit, contract or other agreement for the construction or provision of service from a utility owned, operated, or controlled by the City, or other form of authorization required by law, rule, regulation, order, or ordinance, which has been approved by the City, that a person or entity must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought, and for which the application for the permit or information required to be submitted for consideration provides notice of the project to the City.

Planning & Zoning Commission. A decision-making body appointed by the City Council which is responsible for subdivision approval, as permitted by State law, and which has any other authority conferred upon it by the City Charter, this Ordinance, or other regulation of the City.

Plat. A plan which shows the exact layout and proposed construction of a proposed development into one or more lots, blocks, streets, parks, school sites, easements, alleys and/or any other elements as required by this Ordinance, including any engineering or construction standards for related improvements, and which conforms to all requirements of this Ordinance and any other applicable City ordinance, and which is subject to approval by the Planning & Zoning Commission, unless otherwise specified.

Plat, Amending. A plat with minor changes to a recorded subdivision as itemized and authorized in Section 4.08 of this Ordinance.

Plat, Conveyance. A plat which conforms to Section 4.04 of this Subdivision Ordinance and is used solely for the purpose of subdividing land and the recording of same, or recording a single existing lot or parcel created by other means. Such plat is used to convey the property or

interests therein and is for property intended for immediate development. A Conveyance Plat is an interim step in the subdivision and development of land.

Plat, Final. A plat which conforms to Section 4.03 of this Subdivision Ordinance and is submitted to the City for consideration for final approval by the Planning & Zoning Commission. The plat illustrates that the subdivision of land is consistent with all standards of this Subdivision Ordinance pertaining to the adequacy of public facilities and the installation of or provision for public improvements. Once approved, such plat is submitted to the County Clerk of Collin or Denton County, as applicable, for recording.

Plat, Minor. A plat dividing land into no more than four (4) lots that meets the submission and approval requirements of Section 4.05 of this Ordinance. Such plat may be approved by the Director of Development Services. Such plat is also considered a Final Plat.

Plat, Preliminary. A plat which conforms to Section 4.02 of this Subdivision Ordinance and is submitted to the City for consideration for initial approval by the Planning & Zoning Commission. Such plat is not to be recorded, but illustrates the general layout of a proposed subdivision, the adequacy of public facilities needed to serve the proposed subdivision, and the overall compliance of the applicable requirements of this Ordinance. Such plat is reviewed and decided prior to approval of a Final Plat.

Private Street. See *Street, Private*.

Private Utility. See *Utility, Private*.

Progress (Towards Completion). Shall have the same meaning set forth in Section 245.005(c) of the Texas Local Government Code, as it exists or may be amended, unless another meaning is specified.

Project. An endeavor over which the City exerts its jurisdiction and for which more than one permit is required to initiate, continue, or complete the endeavor.

Property Owner. The legally recognized proprietor of the land for which an application is being submitted. Also see *Developer*.

Proportionality/Proportional Share. The developer's portion of the costs of an exaction or public improvement as determined and in accordance with Texas Local Government Code 212.904 and considered to be the "roughly proportional share" of such exaction or public improvement that is created by a proposed development or subdivision.

Public Improvement. See *Improvement, Public*.

Public Way. An officially approved, privately maintained street, constructed to City street standards, open to unrestricted and irrevocable public access, serving two (2) or more lots that provides the primary means of access and providing fire lane and utility easements.

Rear Lot Line. See *Lot Line, Rear*.

Record Drawings. A group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements which have been verified by the contractor as their installation or construction occurs during development. The record

drawings shall reflect the construction plans (or working drawings) used, corrected, and/or clarified in the field.

Replat. The re-subdivision of any or part or all of any block or blocks of a previously platted subdivision, addition, lot or tract, that is beyond the definition of an Amending Plat and which does not require the vacation of the entire preceding plat. Such plat also conforms to Section 4.07 of this Subdivision Ordinance. A Replat can function as a Final Plat for a property.

Responsible Official. The City staff person who has been designated by the City Manager to perform one (1) or more of the following tasks (this term also includes designees):

- (a) Accept an application for filing;
- (b) Review and make recommendations concerning such application;
- (c) Where authorized, to initially decide such applications;
- (d) Initiate enforcement actions;
- (e) Take all other actions necessary for administration of the provisions of this Subdivision Ordinance with respect to such application.

Right-of-Way. A use of land dedicated by plat or metes and bounds to and for use by the public, which is separate and distinct from the lots and parcel abutting it, and which is not included within the dimensions or areas of such lots or parcels. Generally describes an area used for the provision of streets and utilities. Unless otherwise specified, the term *right-of-way* shall refer to a public right-of-way.

Riparian Study. An ecologically based study that addresses the three major components of a stream (channel, floodplain and transitional upland fringe).

Road, or Roadway. See *Street*.

Screening. A barrier intended to separate and limit visibility between that which is on either side of the barrier, for example, a thoroughfare and adjacent land uses.

Side Lot Line. See *Lot Line, Side*.

Street. An access way for vehicular traffic and other public uses, whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated. An alley is not considered a street.

Street, Improved. A street that has been constructed or reconstructed to meet the City's minimum standards regarding right-of-way width, pavement width, and/or pavement type, as defined in the *Thoroughfare and Circulation Design Requirements* and the *Engineering Design Standards and Construction Details*.

Street, Private. A privately owned street within a subdivision for which the private owners assume full responsibility for maintenance and control and which has not been dedicated to the use of the public. This term is inclusive of related alleys.

Street, Stub. A street that has been designed to allow for the future extension of the street through subsequent subdivisions.

Street, Substandard. An existing street that does not meet the current minimum street standards of the City.

Street, Unimproved. A street that does not meet the City's minimum standards regarding right-of-way width, pavement width, and/or pavement type, as defined in the *Thoroughfare and Circulation Design Requirements* and the *Engineering Design Standards and Construction Details*. Most unimproved streets are former country roads that were built before an area was annexed into the City limits and/or before the City implemented thoroughfare design standards.

Subdivide.

(a) Is the following when done for the purpose of sale, conveyance, or development:

- i. The division of any tract of land into two (2) or more tracts or lots; or
- ii. The assembly of two (2) or more tracts of land into one tract or lot.

(b) Is the following with regard to changes to a recorded subdivision plat:

- i. A resubdivision of all or part of the subdivision;
- ii. Any change of lot size or lot lines; or
- iii. The relocation of any street.

Subdivider. See *Developer*.

Subdivision. The division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of sale or building development or transfer of ownership with the exception of transfer to heirs of an estate, and shall include re-subdivision.

Submission. The date an applicant delivers an application or petition under this Ordinance to the Director of the applicable City Department, or the date on which an applicant deposits an application or petition with the United States Postal Service by certified mail addressed to the Director of the applicable City Department, along with all required fees and documents.

Substandard. A condition of a road or other public improvement that does not meet the City's current right-of-way, design, capacity or construction standard(s).

Surety. A bond, letter of credit, or letter of financial guarantee from a financial institution.

TCEQ. The acronym for the Texas Commission on Environmental Quality.

Thoroughfare. A general term for a street (see *Street*), which has a more specific meaning when used in conjunction with a class distinction, such as Major, Minor, Type A, Type B, etc. Each class provides a certain degree of continuity, capacity and accessibility to adjacent land uses.

Thoroughfare and Circulation Design Requirements. The design standards that define how streets, driveways, alleys and sidewalks shall be built in the City of Frisco. This includes but is not limited to street width, length, curvature and design speed, as well as median opening spacing, driveway spacing, and turn lane length.

Thoroughfare, Major. An arterial street designed to accommodate cross-City traffic movement, distributing traffic to and from minor thoroughfares and collector streets. Major Thoroughfares are divided roadways that typically have an ultimate width of six lanes. Such streets shall also be

as described within the City's Thoroughfare and Circulation Design Requirements, and as shown on the Thoroughfare Plan Map. Also is referred to as a Type A Thoroughfare.

Thoroughfare, Minor. An arterial street designed to accommodate neighborhood-to-neighborhood (intra-City) traffic movement, distributing traffic to and from collector streets. Minor Thoroughfares are divided roadways that typically have an ultimate width of four lanes. Such streets shall also be as described within the City's Thoroughfare and Circulation Design Requirements, and as shown on the Thoroughfare Plan Map. Also is referred to as a Type B Thoroughfare.

Thoroughfare Plan Map. A component of the City's Comprehensive Plan that generally represents the proposed grid-system of major and minor thoroughfares that will support the Future Land Use Plan. The exact locations of future roadways cannot be determined without engineering and environmental analysis, but the Map should be used as a guide as development occurs in terms of how connections should be made and by what type of thoroughfare. The Thoroughfare Plan Map also shows existing railroads and proposed transit rail stations.

Thoroughfare Screening. Screening (see definition), both landscaping and screening walls/fences, between lots/subdivisions and major thoroughfares as required by Section 8.06 of this Ordinance.

Tributary. A riparian branch that feeds (i.e., flows into) a Major Creek, as identified and defined in the City's Riparian Study, as amended.

TxDOT: The acronym for the Texas Department of Transportation.

Type A Thoroughfare. See *Thoroughfare, Major*.

Type B Thoroughfare. See *Thoroughfare, Minor*.

Type C Thoroughfare. See *Collector Street*.

Type D Thoroughfare. See *Collector Street*.

Type E Thoroughfare. See *Local Street*.

Type F Thoroughfare. See *Local Street*.

Type G Thoroughfare. See *Local Street*.

Utility, Private. Services, and any related facilities (e.g., distribution lines), not customarily provided by the City or public entities; such services generally include electricity, natural gas, and telecommunications.

Utility, Public. Services, and any related facilities (e.g., distribution lines), typically provided by the City, County, or publicly owned entity; such services include potable water distribution, wastewater collection, and storm water management.

Variance. As defined in the Zoning Ordinance.

Vegetative Study. A study in which the main purpose is identification and consideration of unique vegetative communities that are important for conserving biotic diversity and are rare due to conversion to other land uses.

Vested Right. A right of an applicant in accordance with Chapter 245 of the Texas Local Government Code, as amended, requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of this Chapter and/or of any subsequent amendments.

Vested Rights Petition. A request for relief from any standard or requirement of this Subdivision Ordinance based on an assertion that the applicant (petitioner for relief) has acquired a vested right. Such petition is regulated under Section 9.03 of this Ordinance.

Violation. Any failure to fully comply with this Subdivision Ordinance.

Waiver, Major (Major Waiver). A significant change to both the standards and intent of this Subdivision Ordinance, which involves Planning & Zoning Commission approval. A Major Waiver includes any type of waiver that is not specifically listed in Table 9.01-1.

Waiver, Minor (Minor Waiver). A minor change to the standards, but not the intent, of this Subdivision Ordinance, which involves Director of Development Services or Director of Engineering Services (as applicable) approval unless otherwise noted. An exclusive list of Minor Waivers is shown in Table 9.01-1.

Wetland. An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wetland Delineation Study. A study in which the main purposes are to determine jurisdictional wetlands and to ensure compliance with Section 404 of the Clean Water Act and other applicable regulations of the U.S. Army Corps of Engineers.

Zoning Ordinance. The City's *Comprehensive Zoning Ordinance*.



## SECTION 11: AMENDMENTS; FEES; VIOLATIONS; CONFLICTS

### SECTION 11.01 AMENDMENTS

The Commission or City Council by majority vote may initiate changes to the Subdivision Ordinance through a call for public hearing. The case to consider amending the Subdivision Ordinance is considered in a public hearing by the Commission which will make a recommendation to City Council. City Council will consider the Commission's recommendation at a public hearing, upon which the City Council will make a decision whether to direct staff to prepare an Ordinance amending the Subdivision Ordinance.

### SECTION 11.02 FILING FEES & CHARGES

- (a) **General.** Fees shall be paid to the City when any application authorized by this Ordinance is submitted to Development Services. Each of the fees, as provided in Section 11.02(b), shall be paid in advance, and no action of the Commission, the City Council, or any other City board or commission shall be valid until all required fees have been paid. Fees paid for the review and consideration of plats and applications under this Ordinance are non-refundable.
- (b) **Calculations & Charges.** Fees and charges shall be calculated in accordance with the following.
- (1) All fees shall be as established by City ordinance.
  - (2) These fees shall be charged on all plats and applications authorized by this Ordinance, regardless of the action taken by the decision-making authority and of whether the application is approved, denied or closed.



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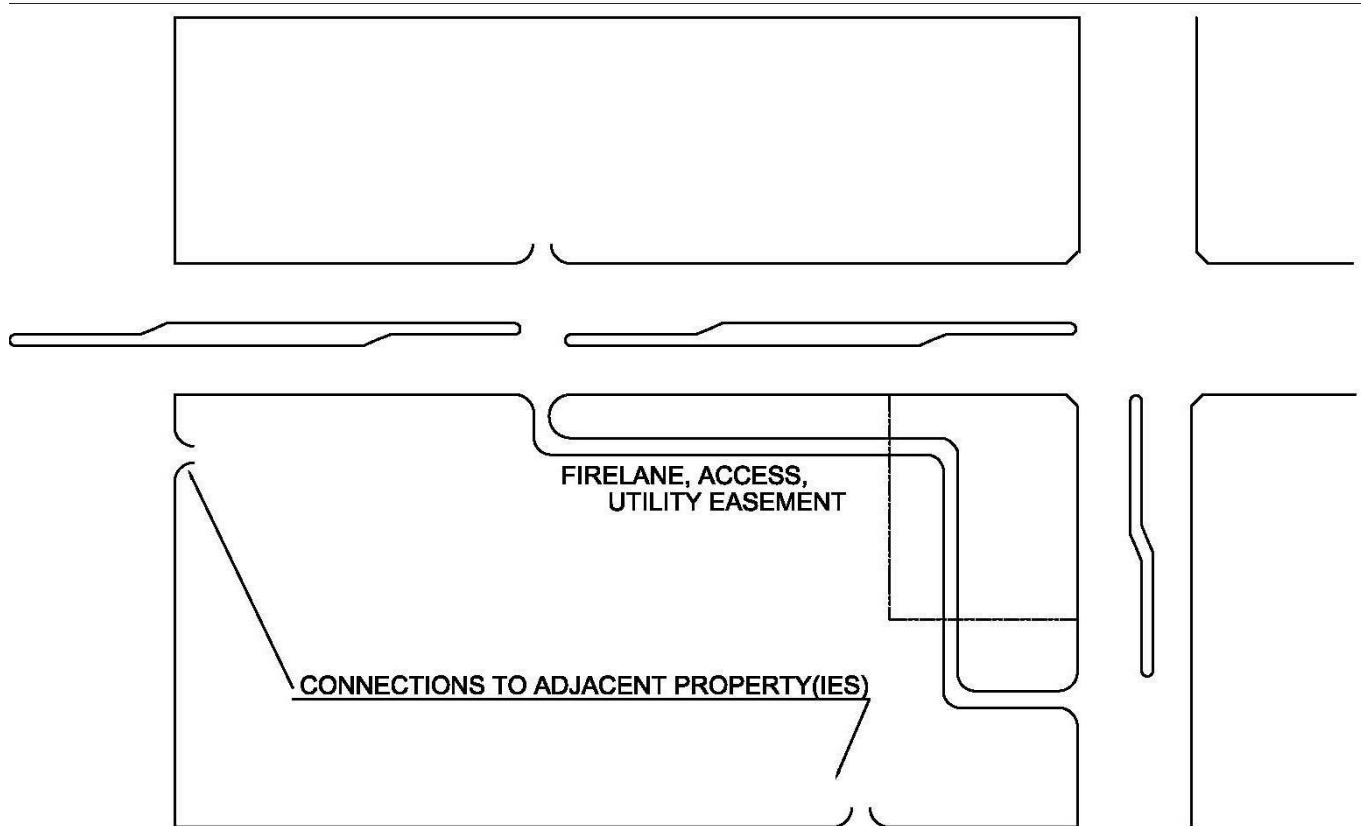


*Table 2.01-1: Responsible Officials, Initial Decision-Makers and Appellate Decision-Makers*

Type of Application or Petition	Responsible City Official	Initial Decision-Maker	Appellate Decision-Maker	Further Appeal
<b><u>Waiver of Right to 30-Day Action</u></b> Section 3.03(e)	Director of Development Services	n/a	n/a	n/a
<b><u>Extension of Plat Approval</u></b> Section 4.02(j)	Director of Development Services	Director of Development Services	Planning & Zoning Commission	City Council
<b><u>Preliminary Plat</u></b> Section 4.02	Director of Development Services	Planning & Zoning Commission	City Council	n/a
<b><u>Final Plat</u></b> Section 4.03	Director of Development Services	Planning & Zoning Commission	City Council	n/a
<b><u>Conveyance Plat</u></b> Section 4.04	Director of Development Services	Planning & Zoning Commission	City Council	n/a
<b><u>Minor Plat</u></b> Section 4.05	Director of Development Services	Director of Development Services	Planning & Zoning Commission	City Council
<b><u>Replat</u></b> Section 4.07	Director of Development Services	Planning & Zoning Commission	City Council	n/a
<b><u>Amending Plat</u></b> Section 4.08	Director of Development Services	Director of Development Services	Planning & Zoning Commission	City Council
<b><u>Plat Vacation</u></b> Section 4.09	Director of Development Services	City Council	n/a	n/a
<b><u>Construction Plans</u></b> Section 5.01	Director of Engineering Services	Director of Engineering Services	n/a	n/a
<b><u>Extension of Construction Plans Approval</u></b> Section 5.01(h)	Director of Engineering Services	Director of Engineering Services	n/a	n/a
<b><u>Construction Release</u></b> Section 5.01(i)	Director of Engineering Services	Director of Engineering Services	n/a	n/a
<b><u>Improvement Agreement</u></b> Section 5.04	Director of Engineering Services	Director of Engineering Services	City Council	n/a

Type of Application or Petition	Responsible City Official	Initial Decision-Maker	Appellate Decision-Maker	Further Appeal
<b><u>Minor Waiver</u></b> <i>Section 9.01</i>	Director of Development Services --or-- Director of Engineering Services (as applicable)	Director of Development Services --or-- Director of Engineering Services (as applicable – see Table 9.01-1)	Planning & Zoning Commission (requires 4 votes to overrule initial decision)	City Council (requires 4 votes to overrule initial appeal decision)
<b><u>Major Waiver</u></b> <i>Section 9.01</i>	Director of Development Services --or-- Director of Engineering Services (as applicable)	Planning & Zoning Commission --or-- City Council (as applicable)	Planning & Zoning Commission --or-- City Council (as applicable; requires 4 votes to overrule initial decision)	City Council (requires 4 votes to overrule initial appeal decision)
<b><u>Proportionality Appeal</u></b> <i>Section 9.02</i>	Director of Engineering Services	City Council (with recommendation from Planning & Zoning Commission)	City Council (requires 4 votes to overrule initial decision)	n/a
<b><u>Vested Rights Petition</u></b> <i>Section 9.03</i>	Director of Development Services --or-- Director of Engineering Services (as applicable)	Director of Development Services --or-- Director of Engineering Services --or-- Planning & Zoning Commission (as applicable)	City Council	n/a

Diagram 8.01-1: Median & Cross Access



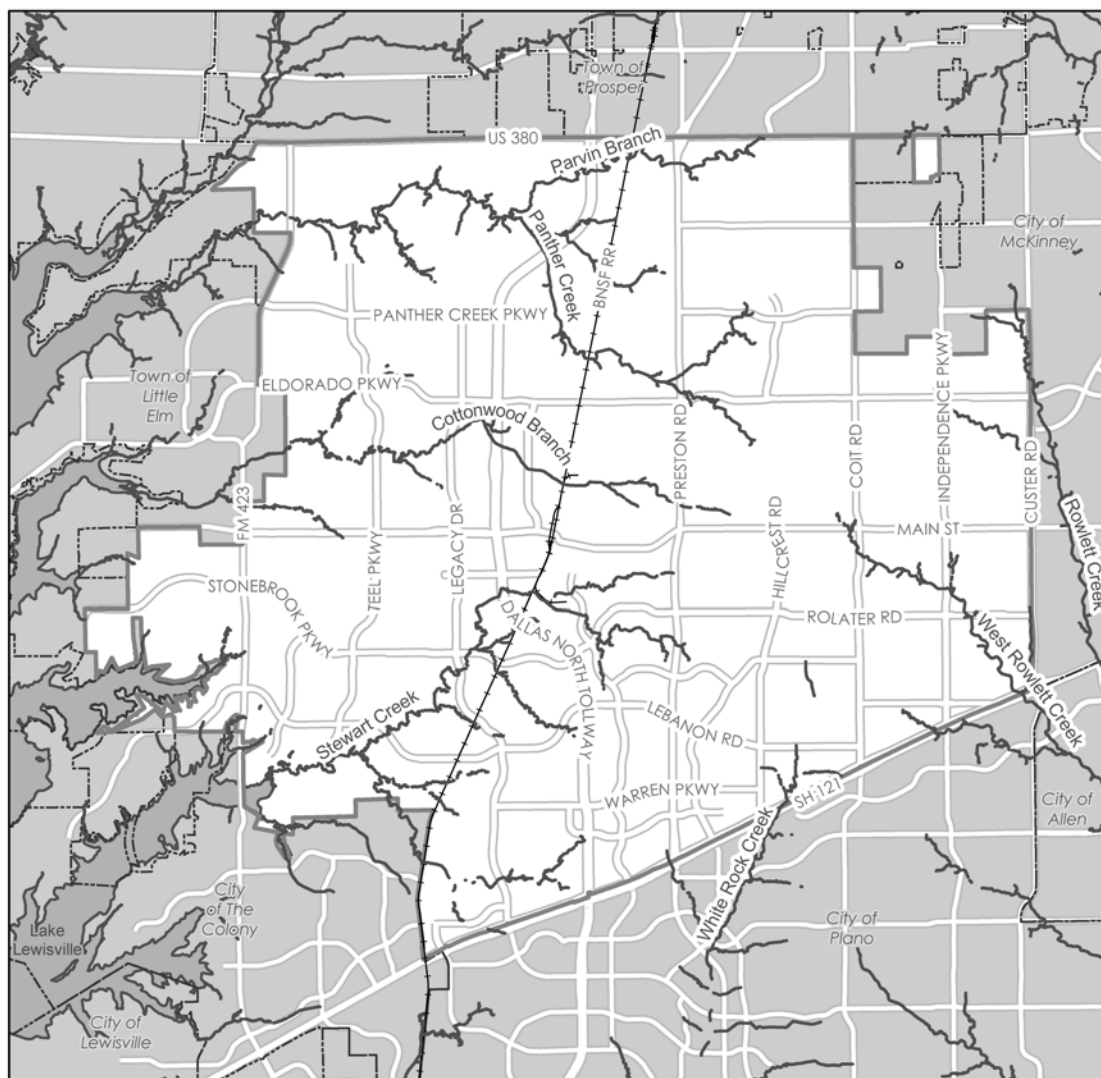
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




Diagram 8.03-1: Major Creeks – Map

# City of Frisco - Major Creeks

USGS National Hydrography Dataset - May 19, 2009



## Legend

- |   |  |
|---|--|
|  Major Roads             |  NHD Streams Within Preliminary FEMA DFIRM Areas  |
|  Rail Lines              |  With Greater Than 0.2% Annual Chance of Flooding |
|  Frisco ETJ              |  NHD Named Water Bodies                           |
|  Neighboring City Limits |  |

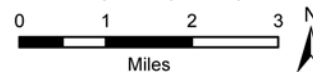
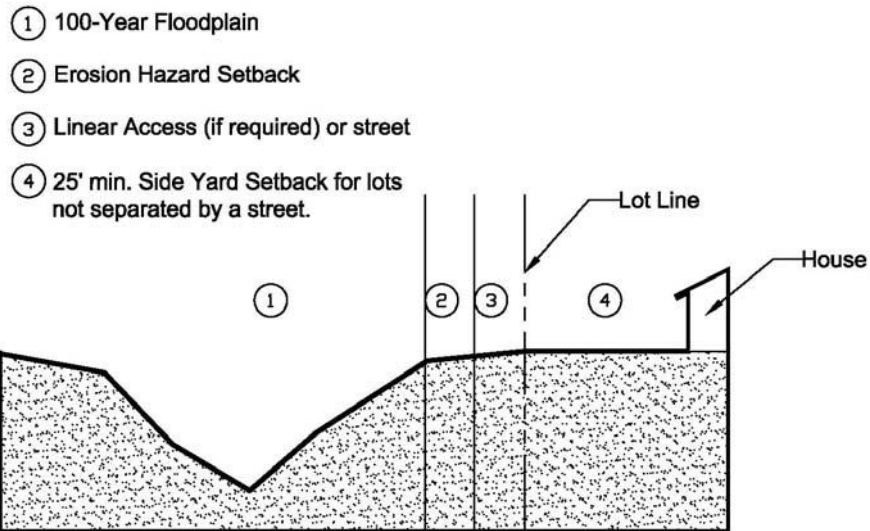
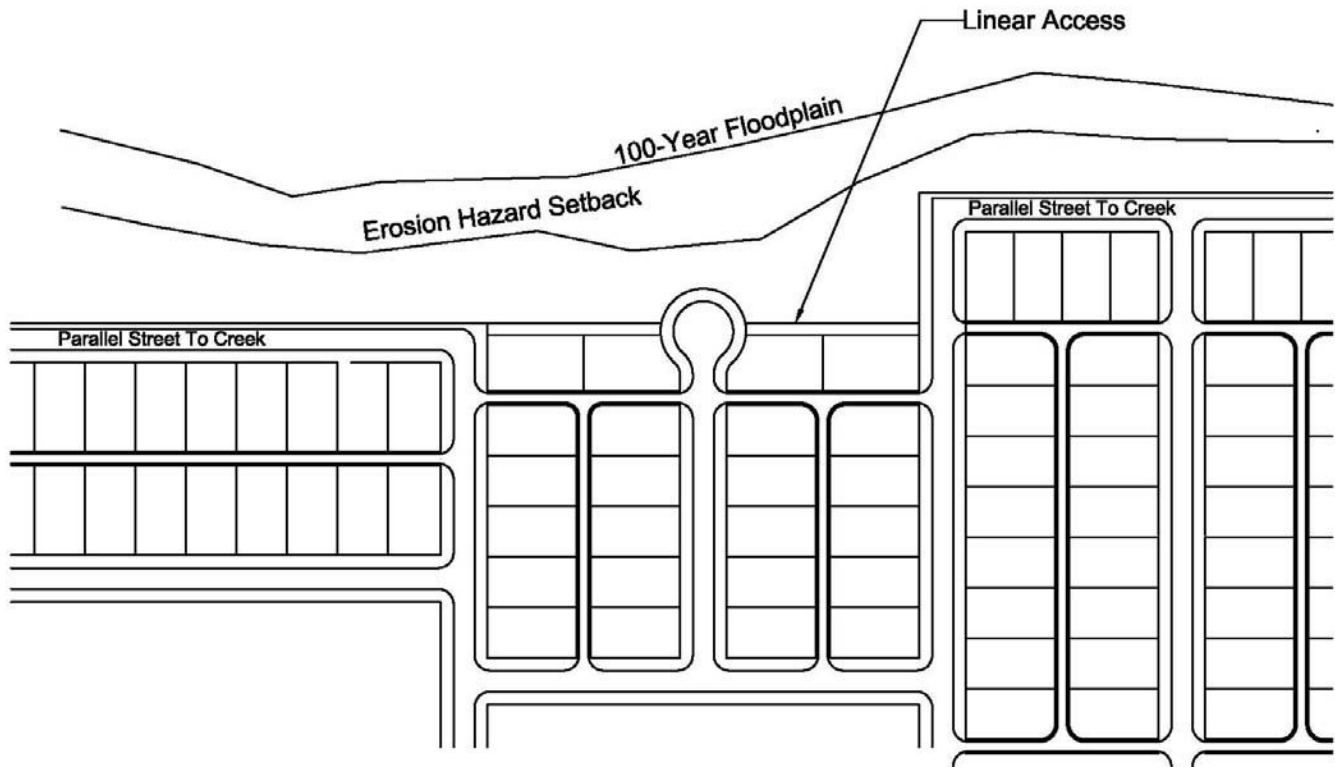


Diagram 8.03-2: Major Creek – Cross Section



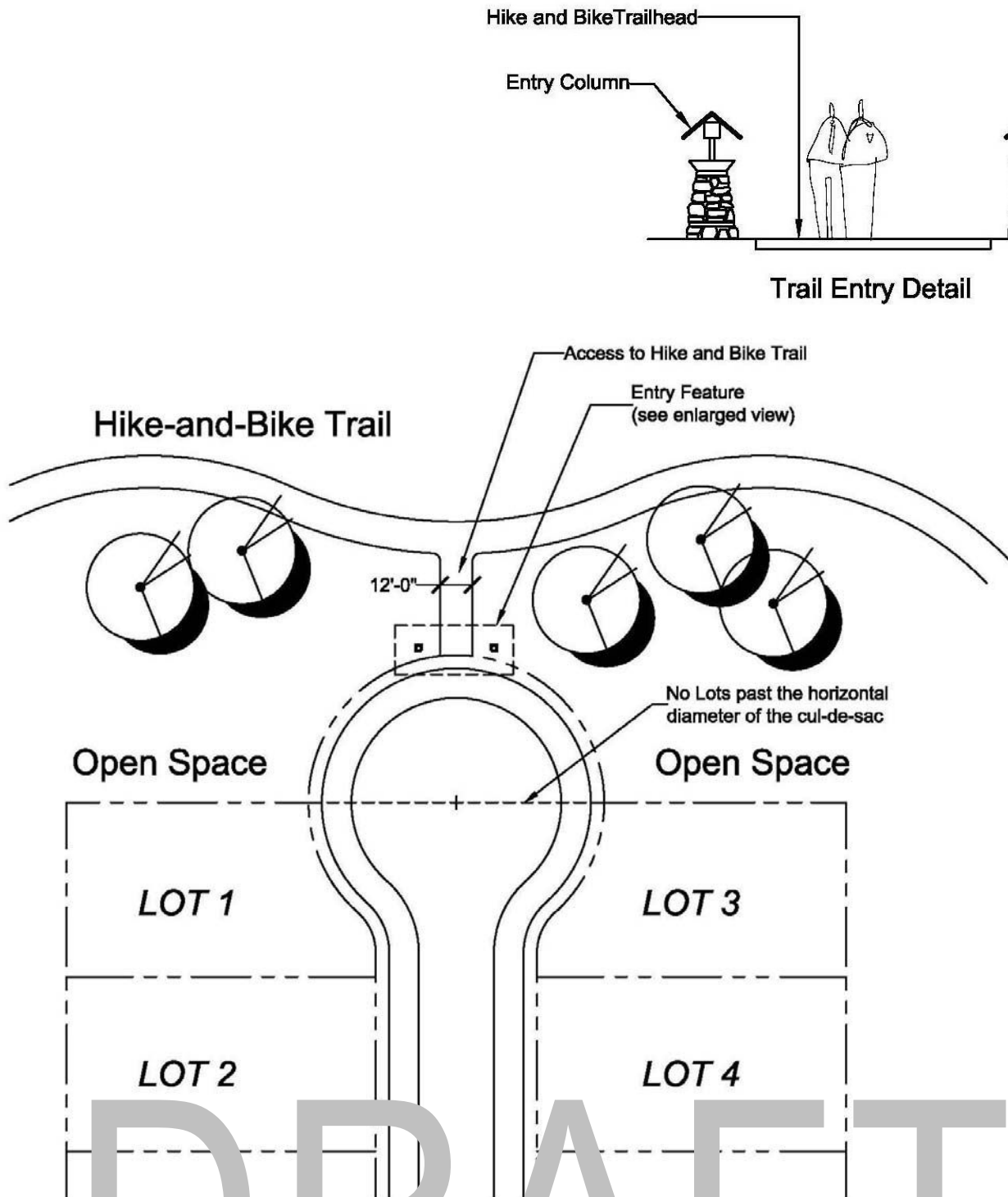
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Diagram 8.03-3: Streets Adjacent to Major Creeks



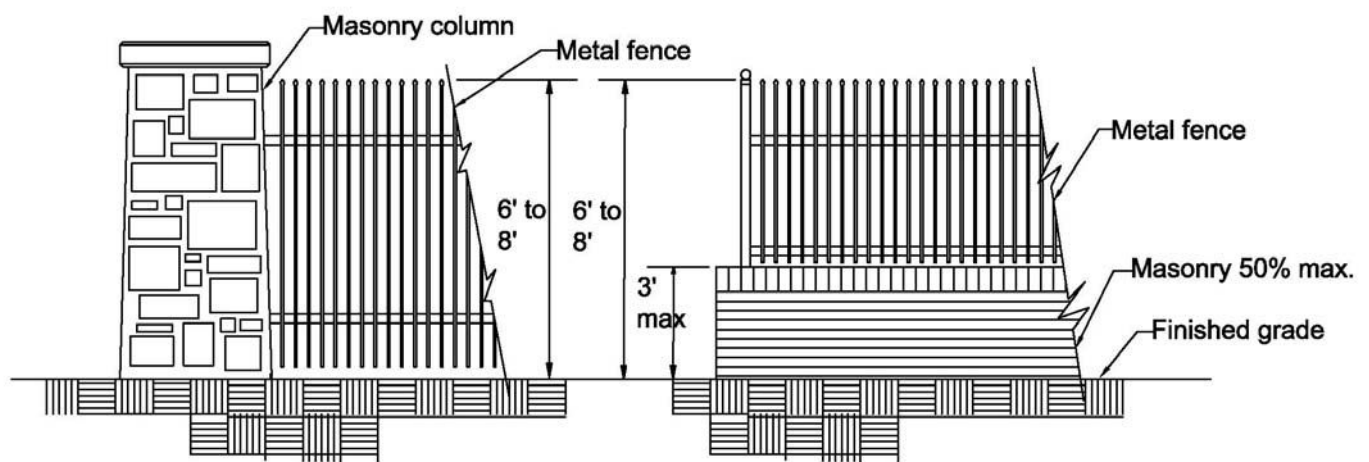
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*Diagram 8.03-4: Cul-de-Sacs Adjacent to Major Creeks*



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Diagram 8.03-5: Fencing Options for Lots Abutting Major Creeks



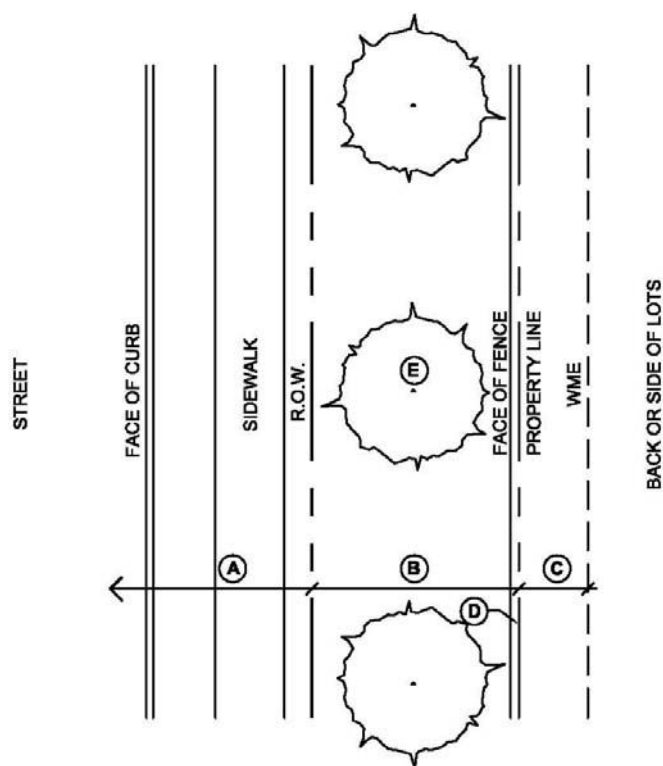
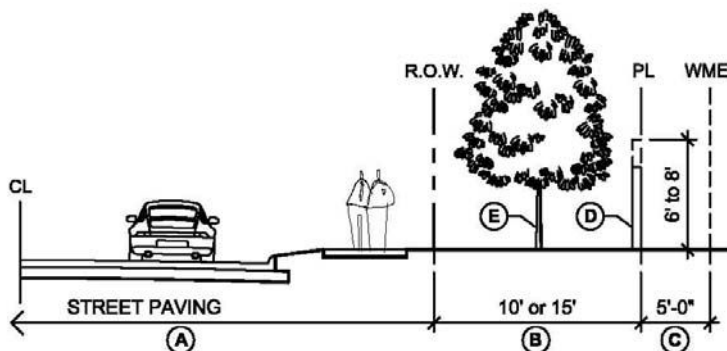
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Table 8.06-1: Thoroughfare Screening Options

Thoroughfare Screening Option	Landscape Edge (minimum width)	Screening Wall/Fence Type	Trees/ Frontage (3" cal. min.)	Shrub Screen	Berms
<b>Option 1</b> (Lots that back or side to the Thoroughfare) <i>Diagram 8.06-1</i>	Type A or B Thoroughfare: 10'  Type C or D Thoroughfare: 15'	Continuous 6'-8' ht. solid masonry wall (can be "staggered" or offset with landscape plantings)	One 3" cal. tree per 30' frontage	Not required	Not required (max. slope 3:1 if used)
<b>Option 2</b> (Lots that are separated from the Thoroughfare by an alley) <i>Diagram 8.06-2(a), 8.06-2(b), 8.06-2(c)</i>	Type A or B Thoroughfare: 10'  Type C or D Thoroughfare: 15'	(a) Continuous 4'-8' ht. solid masonry wall with 6' ht. solid evergreen shrub screen, or (b) Continuous 4'-8' ht. ornamental metal fence with 6' ht. solid evergreen shrub screen, or (c) Continuous 6'-8' ht. solid masonry wall (no shrub screen required)	One 3" cal. tree per 30' frontage	6' ht. solid evergreen shrub screen at time of planting (not required if 6'-8' solid masonry wall is used)	Not required (max. slope 3:1 if used)
<b>Option 3</b> (Lots that back or side to or are separated by an alley from the Thoroughfare) <i>Diagram 8.06-3</i>	Type A, B, C or D Thoroughfare: 25'	4'-6' ornamental metal fence	One 3" cal. tree per 30' frontage	6' ht. solid evergreen shrub screen at time of planting	Not required (max. slope 3:1 if used)
<b>Option 4</b> (Required to be used at the bulb portion of a cul-de-sac where the cul-de-sac lots side onto an adjacent street) <i>Diagram 8.06-4(a), 8.06-4(b)</i>	Type A or B Thoroughfare: 10'  Type C or D Thoroughfare: 15'  Type E, F or G Thoroughfare: Not required (10' separation between rights-of-way is required)	All Types of Thoroughfares: A sidewalk centered on the common property line connecting the cul-de-sac sidewalk and adjacent street sidewalk through an opening in the fence/wall  Type A, B, C & D Thoroughfares: See Screening for Options 1, 2, or 3  Type E, F, or G Thoroughfares: Continuous 4'-8' ht. ornamental metal fence (cannot exceed ht. of adjacent/connecting walls or fences).	Six (6) 3" cal. trees evenly spaced within 150' centered on the common property line.	Min. 3' ht. evergreen shrub screen at time of planting, planted at approximately 5' on center within a distance of 150' centered on the common property line.	Not required (max. slope 3:1 if used)

Diagram 8.06-1: Thoroughfare Screening Option 1

- (A) Right-of-Way (R.O.W.)
- (B) Landscape Edge -  
Type A or B Thoroughfare = 10ft.  
Type C or D Thoroughfare = 15ft.
- (C) 5ft. Wall Maintenance Easement (WME)
- (D) Continuous 6ft. to 8ft. Solid Masonry  
Wall (can be "staggered" or off-set  
with landscape plantings). Columns  
9ft. max with capstones.
- (E) One 3 inch caliper tree per 30ft. of  
frontage.

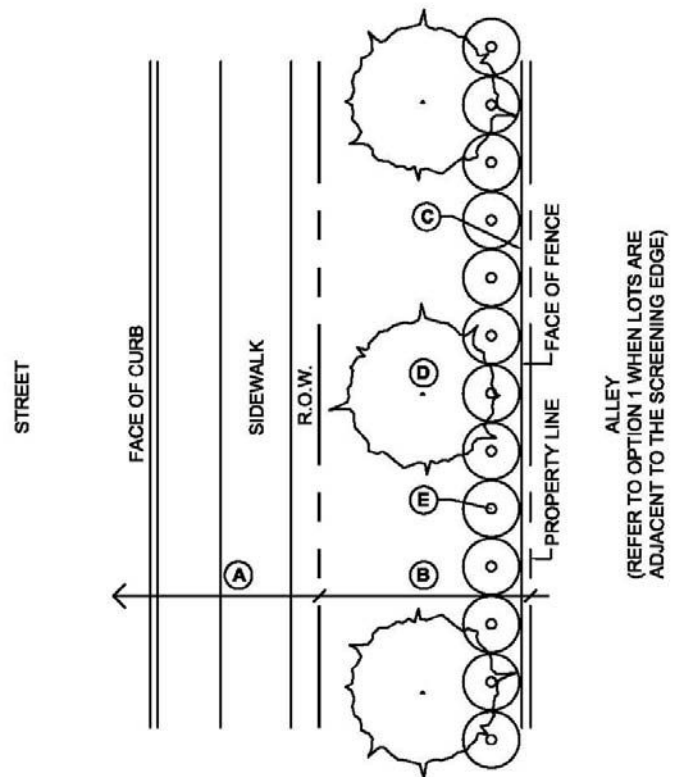
OPTION 1

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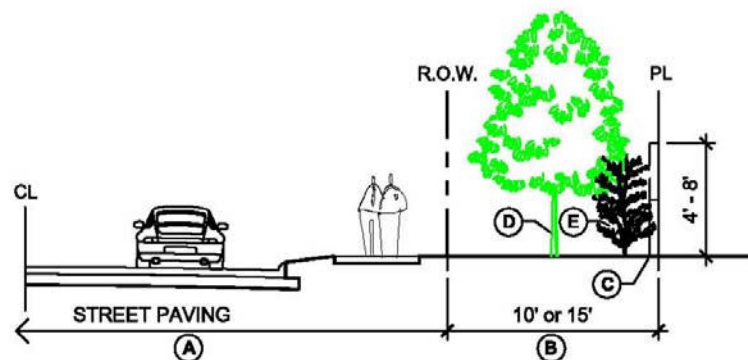


*Diagram 8.06-2(a): Thoroughfare Screening Option 2(a)*

- (A) Right-of-Way (R.O.W.)
- (B) Landscape Edge -  
Type A or B Thoroughfare = 10ft.  
Type C or D Thoroughfare = 15ft.
- (C) Continuous 4ft. to 8ft. Solid Masonry Wall,  
Columns 9ft. max with capstones.
- (D) One 3 inch caliper tree per 30ft. of  
frontage.
- (E) 6ft. high solid evergreen shrub screen  
at time of planting (not required with  
6'-8' masonry wall).



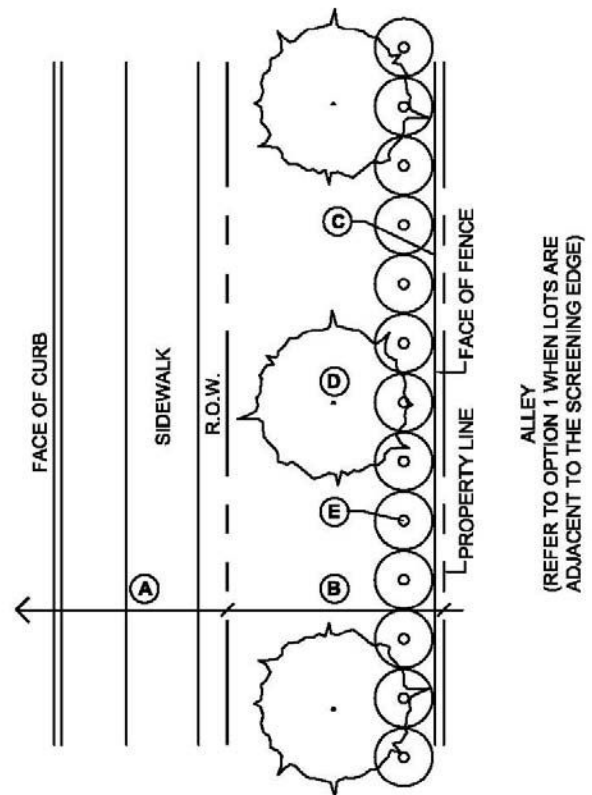
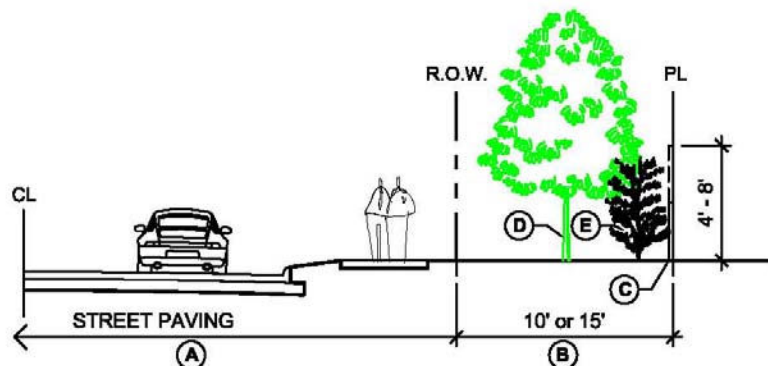
ALLEY  
(REFER TO OPTION 1 WHEN LOTS ARE  
ADJACENT TO THE SCREENING EDGE)

**OPTION 2a**

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Diagram 8.06-2(b): Thoroughfare Screening Option 2(b)

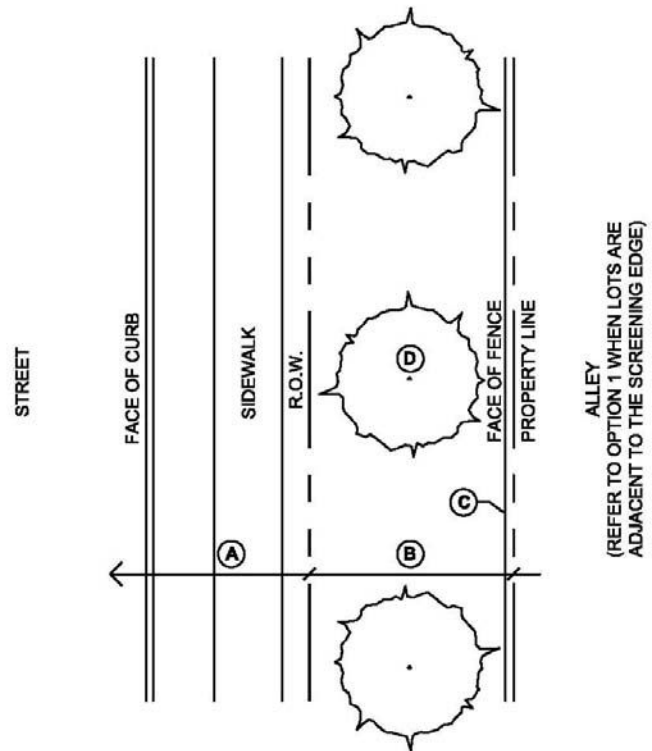
- (A) Right-of-Way (R.O.W.)
- (B) Landscape Edge -  
Type A or B Thoroughfare = 10ft.  
Type C or D Thoroughfare = 15ft.
- (C) Continuous 4ft. to 8ft. Ornamental  
Metal Fence. Columns 9ft. max with  
capstones.
- (D) One 3 inch caliper tree per 30ft. of  
frontage.
- (E) 6ft. high solid evergreen shrub screen  
at time of planting.

OPTION 2b

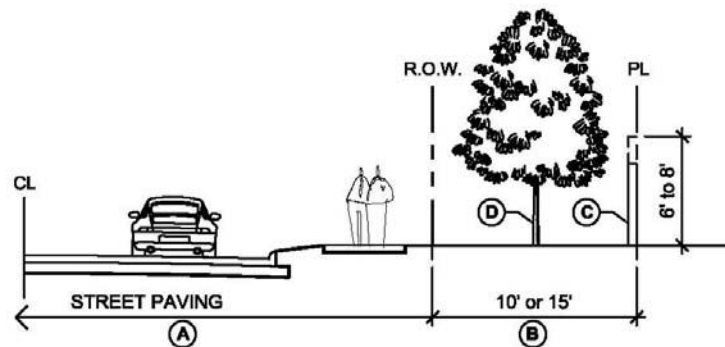
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Diagram 8.06-2(c): Thoroughfare Screening Option 2(c)

- (A) Right-of-Way (R.O.W.)
- (B) Landscape Edge -  
Type A or B Thoroughfare = 10ft.  
Type C or D Thoroughfare = 15ft.
- (C) Continuous 6ft. to 8ft. Solid Masonry Wall (can be "staggered" or off-set with landscape plantings). Columns 9ft. max with capstones.
- (D) One 3 inch caliper tree per 30ft. of frontage.



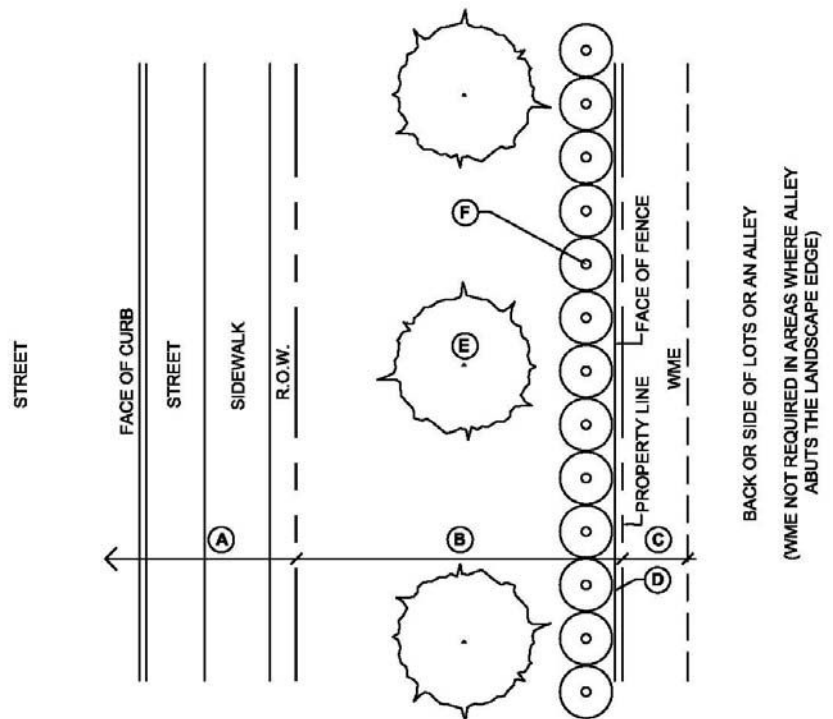
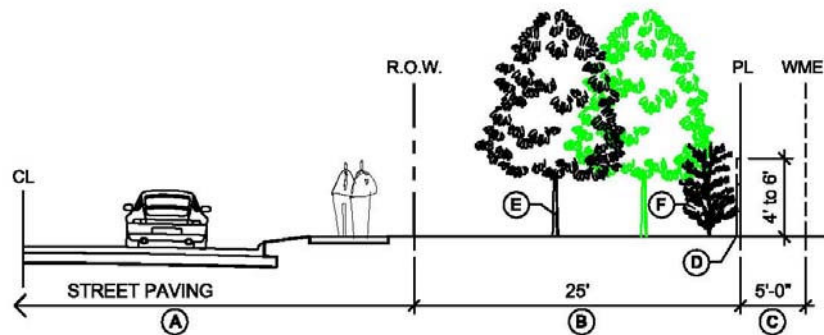
OPTION 2c



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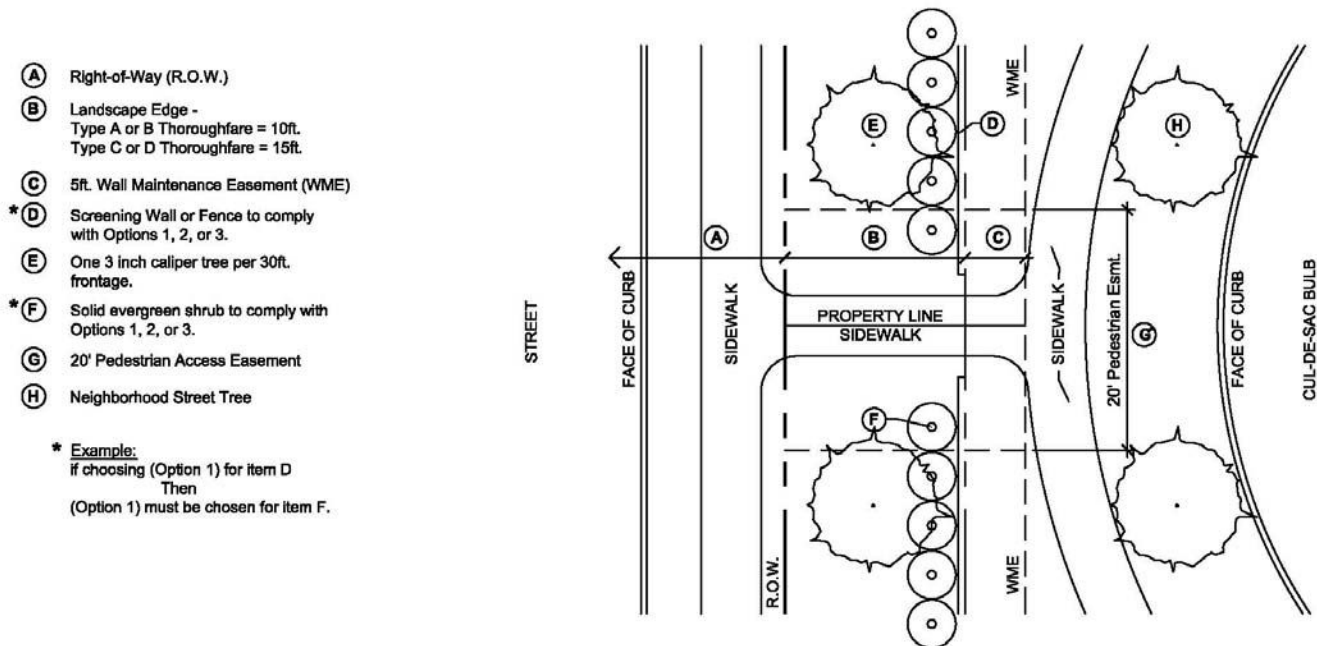
Diagram 8.06-3: Thoroughfare Screening Option 3

- (A) Right-of-Way (R.O.W.)
- (B) Landscape Edge -  
Type A, B, C, D Thoroughfares = 25ft.
- (C) 5ft. Wall Maintenance Easement (WME)  
(Not required if along alley).
- (D) Continuous 4ft. to 6ft. Ornamental  
Metal Fence. Columns 9ft. max with  
capstones.
- (E) One 3 inch caliper tree per 30ft. of  
frontage.
- (F) 6ft. high solid evergreen shrub screen  
at time of planting.

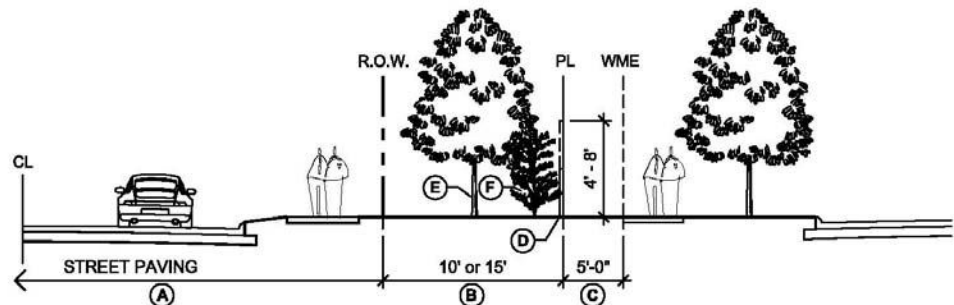
OPTION 3

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*Diagram 8.06-4(a): Thoroughfare Screening Option 4(a)*



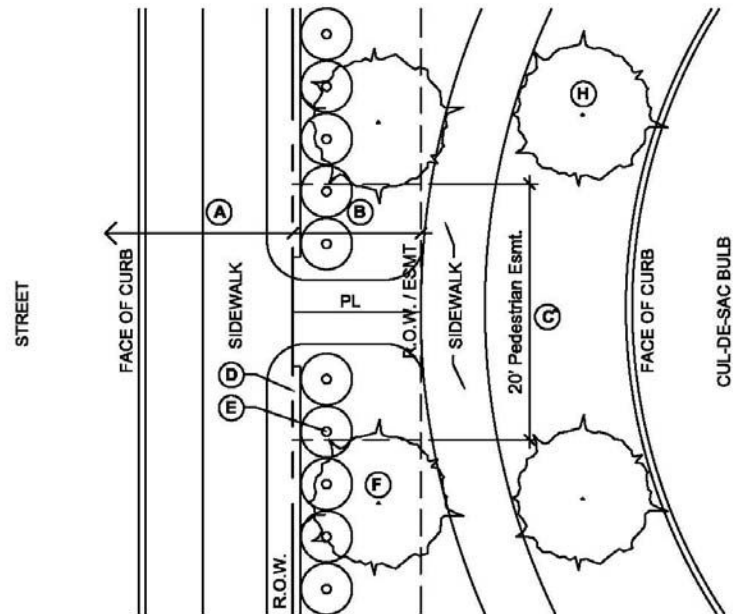
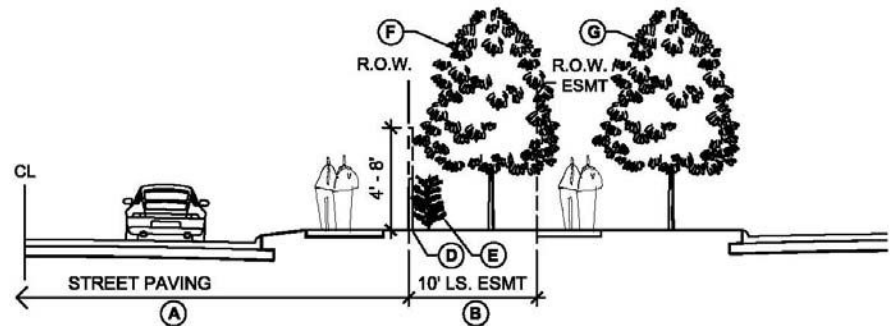
OPTION 4a



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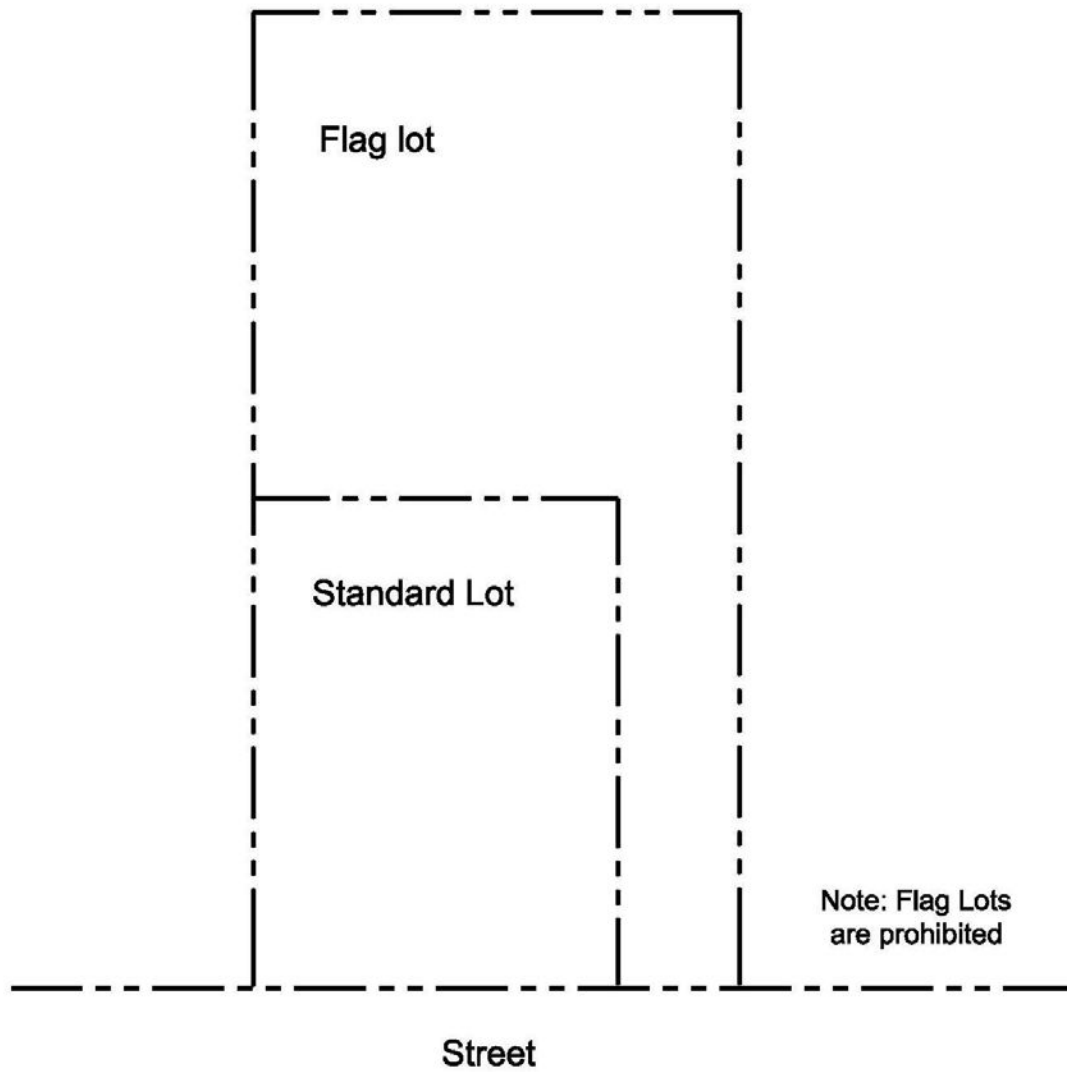
*Diagram 8.06-4(b): Thoroughfare Screening Option 4(b)*

- (A) Right-of-Way (R.O.W.)
- (B) 10ft. Landscape Easement
- (C) 20ft. Pedestrian Access Easement
- (D) Continuous 4ft. to 6ft. Ornamental Metal Fence. Columns 9ft. max with capstones.
- (E) 3ft. high solid evergreen shrub screen at time of planting.
- (F) Six (6) 3in. cal. trees evenly spaced within 150 ft. centered on the common property line.
- (G) Neighborhood Street Tree

**OPTION 4b**

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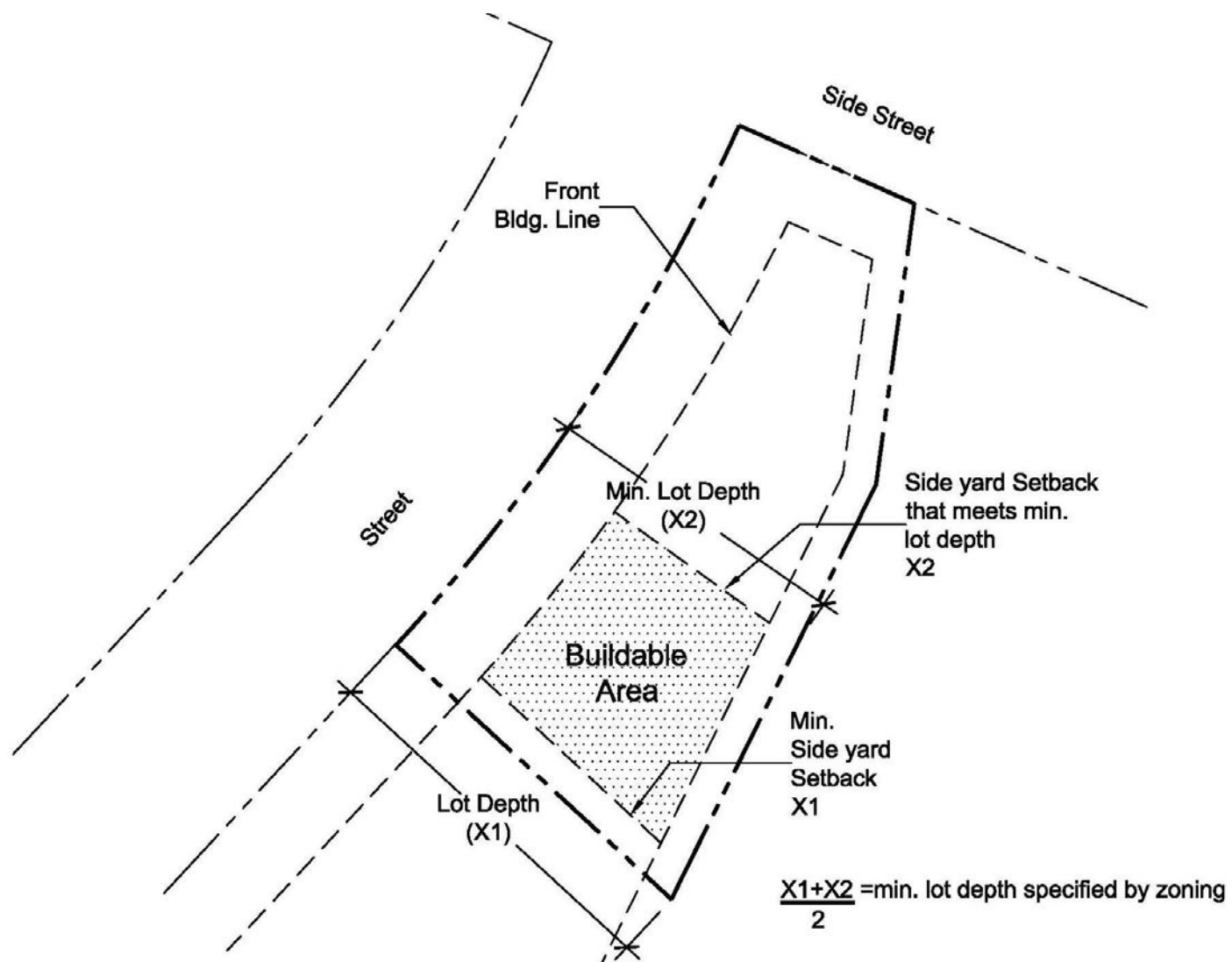
Diagram 8.09-1: Flag Lots



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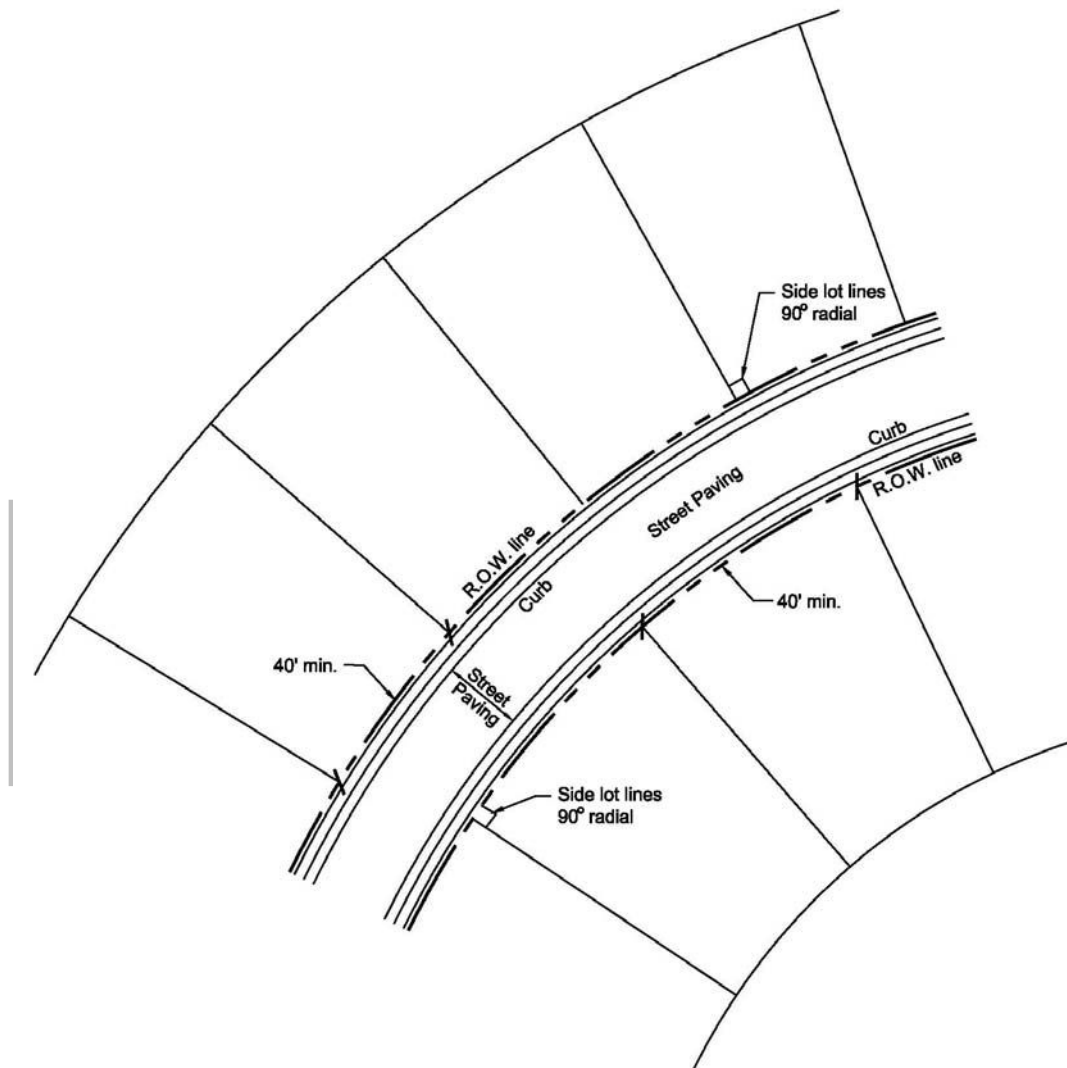


Diagram 8.09-2: Determining Lot Depth on an Irregular-Shaped Lot



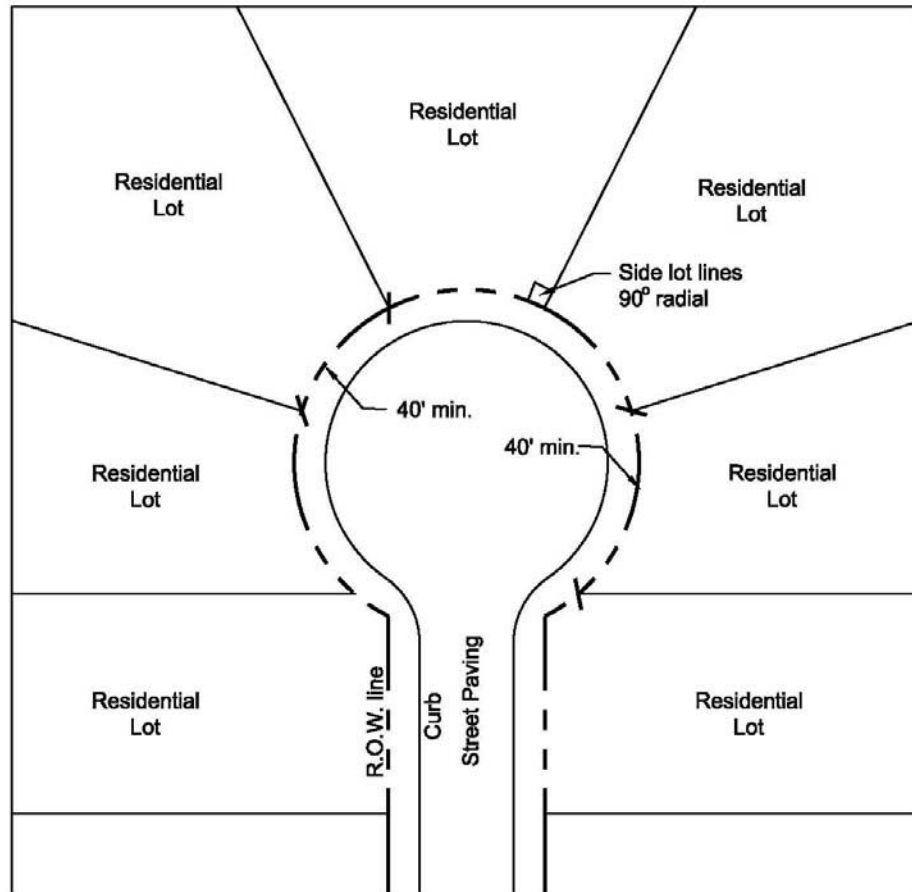
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Diagram 8.09-3: Lot Street Frontage – Curved Streets



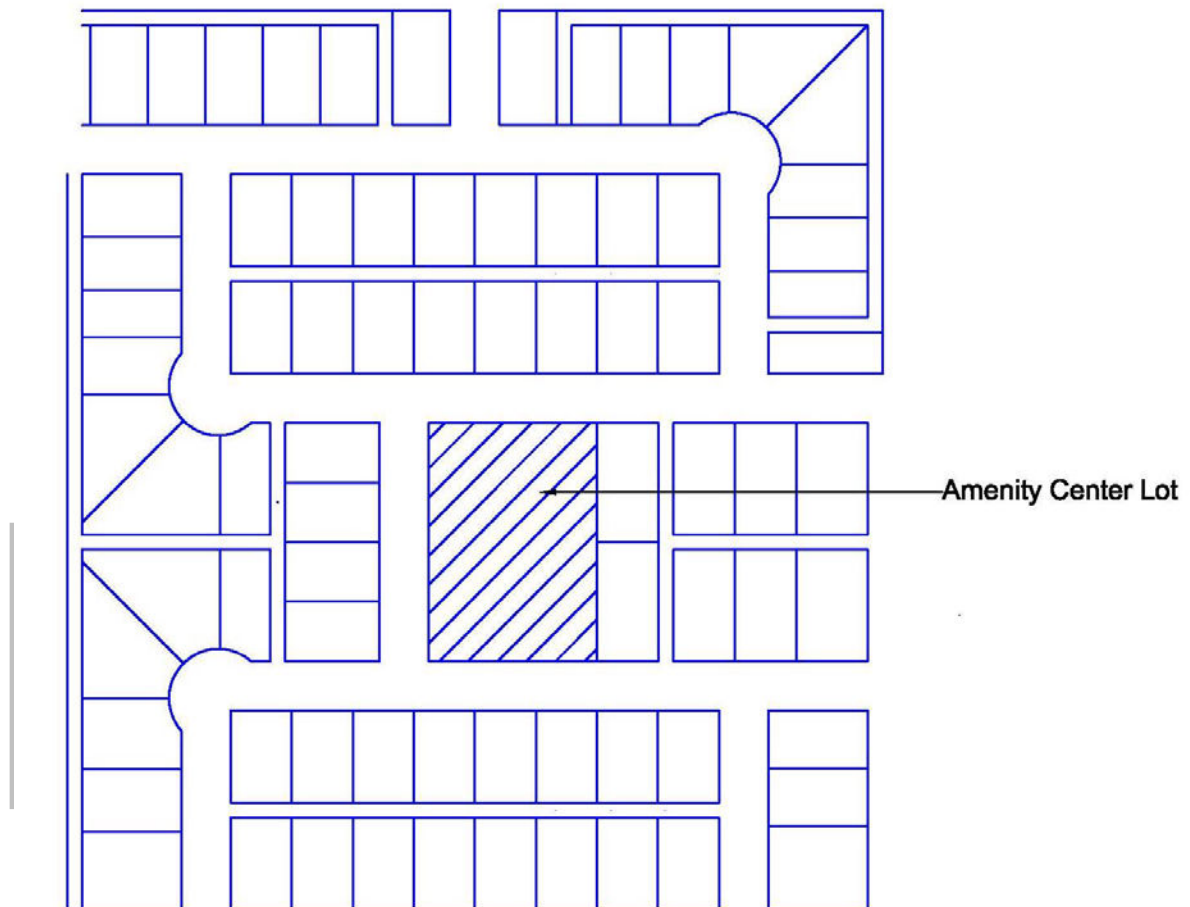
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Diagram 8.09-4: Lot Street Frontage – Cul-de-Sac & Eyebrow Lots



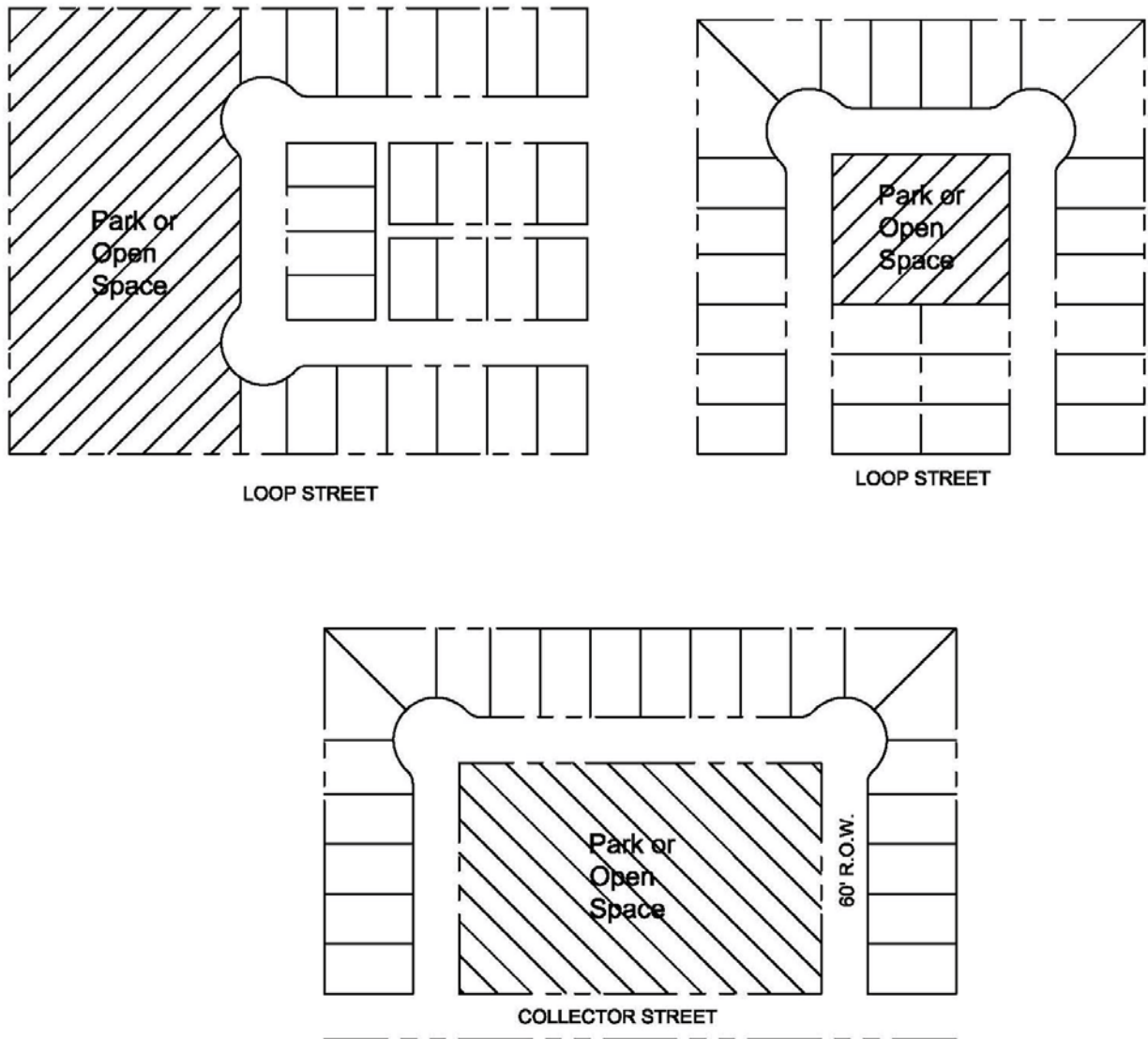
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Diagram 8.10-1: Centrally Located Amenity Center



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Diagram 8.12-1: Access & Lot Orientation to Parks and/or Open Space



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Table 9.01-1: Minor Waivers – Initial Decision-Makers and Appellate Decision-Makers

Type of Minor Waiver	Initial Decision-Maker	Appellate Decision-Maker	Further Appeal
<b><u>Water Line Extension to Boundary of Development</u></b> <i>Section 8.02(d)(2)c.</i>	Director of Engineering Services	Planning & Zoning Commission	City Council
<b><u>Connection Onto City Sanitary Sewer System</u></b> <i>Section 8.02(e)(1)</i>	Director of Engineering Services	Planning & Zoning Commission	City Council
<b><u>Street Lighting</u></b> <i>Section 8.04(b)(11)</i>	Director of Engineering Services	Planning & Zoning Commission	City Council
<b><u>Requirement for Alleys</u></b> <i>Section 8.05</i>	Director of Engineering Services	Planning & Zoning Commission	City Council
<b><u>Side Lot Lines 90°/Radial to Street</u></b> <i>Section 8.09(e)(1)</i>	Director of Development Services	Planning & Zoning Commission	City Council
<b><u>Lot Lines not Aligning with County, School District or Other Jurisdictional Boundary</u></b> <i>Section 8.09(e)(2)</i>	Director of Development Services	Planning & Zoning Commission	City Council
<b><u>Residential Lots Facing Similar Lots</u></b> <i>Section 8.09(g)(3)</i>	Director of Development Services	Planning & Zoning Commission	City Council
<b><u>Subdivision Naming</u></b> <i>Section 8.09(n)</i>	Director of Development Services	Planning & Zoning Commission	City Council
<b><u>Non-Residential Screening Adjacent to Park or Open Space</u></b> <i>Section 8.12(b)(4)</i>	Director of Development Services --and-- Director of Parks & Recreation	Planning & Zoning Commission	City Council